

# PARC DULLES II

Zoning Map Amendment 2002-0017

Special Exception 2008-0026

Special Exception 2008-0027

## *– Statement of Justification –*

August 6, 2002

*Revised October 7, 2002*

*Revised March 14, 2008*

*Revised February 20, 2009*

*Revised July 28, 2009*

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## INTRODUCTION

DTC Partners, LLC, of Rockville, Maryland (the "Owner" and "Applicant") is the owner of the approximately 34 acres of land (the "Property") located at the northeast intersection of City Center Boulevard and Nokes Boulevard within the 554-acre master planned community known as Dulles Town Center.<sup>1</sup> The Applicant proposes to rezone the subject Property from planned industrial to a mix of commercial and multi-family residential land uses. This proposal will incorporate into the overall Dulles Town Center property ("DTC property") an additional high density residential component along with appropriately scaled office and retail uses. In addition, a location for a fire/rescue station is included and the required Special Exception for that use is proposed.

The Property is currently zoned PD-IP (Planned Development – Industrial Park) under the 1993 Zoning Ordinance and is located in the Route 28 Taxing District. It is subject to special exception conditions that permit up to 40% office use (SE 82-26 and SPEX 1990-0071), but the Property is not subject to the original Dulles Town Center concept development plan and proffers (ZMAP 1990-0014, SPEX 1991-0043, and SPEX 1991-0045). The Applicant proposes to rezone the Property from PD-IP to a combination of the PD-CC(CC) and R-24 zoning districts of the 1993 Loudoun County Zoning Ordinance (the "Ordinance"), and in conformance with the density and land use policy recommendations of the Revised General Plan (the "Plan"). Approximately one-third (11 acres) of the site is proposed for non-residential uses and two-thirds (23 acres) is proposed for high density residential uses. Generally, the surrounding planned land uses to the north and east are suburban residential, business to the south, and Keynote to the west. The Property is currently vacant and is located in the Potomac Election District (formerly the Broad Run Election District).

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<sup>1</sup> The Property is more particularly described as a portion of Parcel 102 (34 acres) on Loudoun County Tax Map 80 (MCPI # 029-37-6224).

**PARC DULLES II**  
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---

This application was heard by the Planning Commission on May 17, 2004 and further discussed subsequent to the public hearing. While most comments on the application were resolved, two major issues remained:

- **Land Use.** Significant concern was expressed that this project be conceptualized in relation to the Dulles Town Center Master Plan and that such a master plan was not fully developed at that time. As originally proposed, the project was primarily residential with approximately 600-units (age-restricted) included.

Since the Planning Commission deliberations on this case, the Applicant has redesigned the proposal to respond to concerns about land use. The proposed number of residential units is scaled back by nearly 30% and a community-oriented retail/office component has been incorporated. The residential portion is designed as an extension of the well-received Parc Dulles project adjacent to the north. The non-residential element is comprised of moderate scale office and retail uses designed to be physically and functionally integrated into the Dulles Town Center property. It is an integral part of Parc Dulles II but is also walkable from the other residential neighborhoods in the DTC property. Importantly, it is also accessible from Nokes Boulevard, enhancing its potential as a vibrant office/retail center that will be a true amenity to Dulles Town Center residents as well as people who work in and around the DTC property. The scale of the non-residential uses compliments the larger scale office and retail already present in the mall and to the west of the mall.

The Applicant, concurrent with this redesign, also proceeded with master planning efforts for the full 554-acre DTC property. The area to the north and west of the mall was significantly redesigned and, in a separate rezoning application, a mixed use development is proposed with 100% office west of Atlantic Boulevard and a mix of uses in a town center format east of Atlantic. The Dulles Town Center rezoning (ZMAP 2007-0001; ZCPA 2007-0001, currently in review), proposes to redesign the existing approved office use, to increase the existing approved office square footage for the entire property by 250,000 sf and to add a high density residential component, in a vertically mixed arrangement. Importantly, the Dulles Town Center rezoning affirms Atlantic Boulevard as the key boundary between Keynote Employment land use and the Urban Center, which supports a broad mix of uses.

- **Schools.** The availability of school capacity in the assigned school district was raised as a significant concern and was unresolved at the time.

The Applicant has discussed a variety of solutions with the staff of Loudoun County Public Schools. LCPS recommendation is that the site be served by the underutilized Park View cluster, to the east.

**PARC DULLES II**  
Zoning Map Amendment  
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August 6, 2002  
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*Revised February 20, 2009*  
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---

## **BACKGROUND**

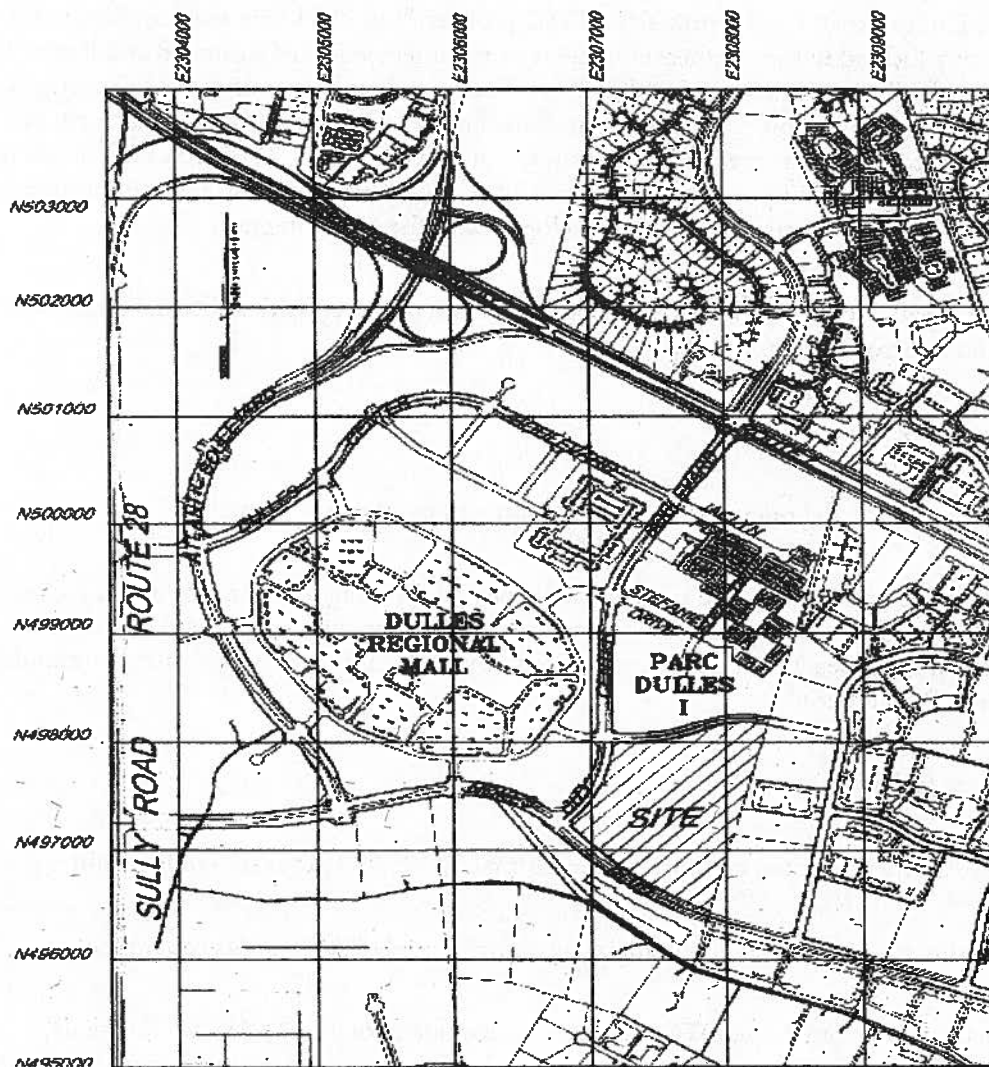
The Dulles Town Center property ("DTC property") is a 554-acre master planned mixed-use community located in the southeast quadrant of the intersection of Route 28 and Route 7. See Exhibit A for the Zoning History of Dulles Town Center. The portion of the DTC property that is the subject of this application consists of approximately 34 acres located in the southeastern portion of the property, as more particularly shown on the enclosed *Concept Development Plan* (the "Concept Plan"), prepared by Dewberry & Davis LLC, dated July 2002 and revised through August 26, 2009. The DTC property is presently developed with the following uses:

- a regional mall, including five major anchor/department stores, and additional retailers and restaurants surrounding the mall;
- a restaurant park;
- a limited service hotel operated under the Courtyard by Marriott name;
- 3 residential components: 156 single family attached dwelling units known as the Colonnade at Dulles Town Center, a 406-unit multi-family luxury apartment community known as the Remington at Dulles Town Center, and 393-unit multi-family luxury apartment community known as Parc Dulles;
- a day care facility;
- a 'Class A' office building comprising approximately 185,000 gross square feet; and
- a flex industrial/office building comprising approximately 99,000 gross square feet.

As presently zoned, the DTC property will include a total of 1,068 dwelling units, approximately 3.3 million square feet of commercial office space, 1.5 million square feet of retail space, and 1.5 million square feet of flex-industrial. To date, there are 1,000+ occupied dwelling units with over one million square feet of non-residential uses. Figure 1 indicates the location of the subject Property in relation to the existing uses in the DTC property as a whole.

**PARC DULLES II**  
Zoning Map Amendment  
- Statement of Justification -  
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Revised March 14, 2008  
Revised February 20, 2009  
Revised July 28, 2009  
Revised August 31, 2009

**Figure 1: Vicinity Map**





**PARC DULLES II**  
Zoning Map Amendment  
– Statement of Justification –  
August 6, 2002  
Revised October 7, 2002  
Revised March 14, 2008  
Revised February 20, 2009  
Revised July 28, 2009  
Revised August 31, 2009

---

**APPLICANT'S PROPOSAL**

The Applicant proposes to develop the 34-acre Parc Dulles II with a mix of residential multi-family units and a community-oriented office/retail center along with a fire/rescue station. Parc Dulles II will be designed to extend the well-received Parc Dulles project adjacent to the north onto the subject property. The community amenities include a pool and clubhouse, a playground, a tree conservation area to protect forested areas, stream valley resources and an archaeological site and a series of 'Town' and 'Pocket' green spaces. Three specific requests are included as part of this proposal:

- Rezoning from PD-IP to a mix of PD-CC(CC) and R-24 to allow for 445 residential units (inclusive of ADUs);
- Special Exception to permit Fire/Rescue station use; and
- Special Exception to permit office use in excess of 20% of the total square footage allowing up to 100,000 sf of office use in the PD-CC(CC) district, with a minimum of 40,000 sf.

*Residential Land Use.* Just over 20 acres is devoted to the R-24 zoning district and provides for a well-designed residential community to blend with the existing Parc Dulles residential community to the north. Further, the proposed land plan eliminates site access from City Center Boulevard and provides for active and passive recreation opportunities.

*Office/Retail.* Almost 10 acres is devoted to commercial uses, and the proposal has been revised to maximize the opportunity for office use. A minimum of 40,000 sf is set aside for office use and the remaining 60,000 sf could develop as either office or retail. A Special Exception request is included to permit office use exceeding the 20% permitted by right.

Table 1 indicates the specific zoning districts and uses proposed.

**PARC DULLES II**  
Zoning Map Amendment  
– Statement of Justification –  
August 6, 2002  
Revised October 7, 2002  
Revised March 14, 2008  
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Revised July 28, 2009  
Revised August 31, 2009

**Table 1: Zoning Districts and Uses**

<b>Parc Dulles II</b>			
<b>R-24 Zoning District</b> <b>21.5 Acres</b>		<b>PD-CC(CC) Zoning District</b> <b>12.6 Acres</b>	
Market Rate Units	417 DUs	Retail	60,000 sf
Affordable Dwelling Units	28 DUs	Office	100,000 sf (9.1 acres / 76,600 sf by Special Exception)
		Fire / Rescue	17,000 sf (3.3 Acres by Special Exception)
<b>TOTAL Residential</b>	<b>445 DUs</b>	<b>TOTAL Non-residential</b>	<b>117,000 sf</b>

The Applicant is incorporating a 3.3-acre Fire/Rescue site, which will be provided to Loudoun County, with a credit taken against capital facilities obligations, eliminating the need for a direct expenditure for land acquisition. In addition, the Applicant has incorporated a Special Exception request into the subject application for public review, saving the County the cost and time delay of a sequential 6-12 month public review process to obtain a Special Exception to establish the fire/rescue station. This application has been designed to provide this needed civic space for use by the County.

Roughly square in shape, the approximately 34-acre parcel lies at the northeast intersection of City Center Boulevard and Nokes Boulevard. Across City Center Boulevard, the outer ring of the Dulles Town Center Mall is occupied by retail uses, to the south across Nokes Boulevard are a series of light industrial/flex buildings. To the north, a 393-unit multi-family residential community known as Parc Dulles is complete. The architecture and land plan of Parc Dulles II will mirror Parc Dulles to ensure a seamless integration of the new community on its northern boundary. The south side of the property has been replanned as an office/retail center, providing an excellent transition to the Nokes Boulevard frontage and business uses in that corridor. The County's vision is to develop places where people can live, work, play and shop all within easy walking distance. Dulles Town Center will evolve over time to meet this vision, and the Parc Dulles II project is one component of that evolution.

**PARC DULLES II**  
Zoning Map Amendment  
- Statement of Justification -  
August 6, 2002  
Revised October 7, 2002  
Revised March 14, 2008  
Revised February 20, 2009  
Revised July 28, 2009  
Revised August 31, 2009

---

**ZONING MAP AMENDMENT FACTORS**

Section 6-1211(E) of the 1993 Zoning Ordinance outlines various factors for consideration in the review of a rezoning request. The following is an analysis of these factors in relation to the Property.

**1) Whether the proposed zoning district classification is consistent with the Comprehensive Plan.**

**Land Use.** The Parc Dulles II property is governed by the Loudoun County Comprehensive Plan including Revised General Plan, ("Plan") the Retail Plan, and the Revised Countywide Transportation Plan, ("CTP"). The major land use considerations for future development and residential density for the Property are included in Chapter 6: Suburban Policy Area. The Plan notes the following land uses as applicable for this site:

- **Keynote Employment Center.** "...large-scale regional office developments that feature high visual quality and high trip-generating uses, including office parks, research and development parks, corporate headquarters, and similar uses of a large scale." A minimum of 70% of the site should be office uses.
- **Urban Center.** The Plan also identifies this quadrant as appropriate for the County's "Urban Center." The exact location of the Urban Center is not specified on the Planned Land Use Map, though the Plan recommends a range of 60-90 acres.

**Application of Urban Center Policies.** It is clear that, when approved in 2001, the Revised General Plan recognized that the DTC property should develop with a mix of uses that contained a strong regional office component, a destination retail component and a high density residential component. The Planned Land Use Map designated the DTC property as Keynote Employment Center, although destination retail and high density residential existed on site, along with Class A office space. In recognition and support of the mixed use nature of the DTC property, the Plan identifies the area as the correct location for the County's Urban Center. The Plan also recognized the following:

- The Urban Center would "...evolve through phasing in response to changes in the surrounding communities, the development of services such as mass transit, and changes in business and housing trends." (text, Revised General Plan, p. 6-21).

**PARC DULLES II**  
Zoning Map Amendment  
- *Statement of Justification* -  
August 6, 2002  
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*Revised February 20, 2009*  
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---

- The Urban Center is to evolve from the current shopping/mixed use center (Urban Center Policy #1, Revised General Plan, p. 6-21).

We believe that the DTC property has evolved, and that Urban Center policies should be considered in assessing the County's vision for this location. The County staff evaluated the initial submission for this property against Keynote Employment Center policies, as opposed to Urban Center policies. At that time, a larger plan for the DTC property was not submitted, nor had changes to any other part of the DTC property been proposed. In addition to redesigning the subject property to better implement the Urban Center vision for the DTC property, and in response to concerns about the need for a master plan context, the Applicant has submitted a separate rezoning that would focus all regional scale office uses west of Atlantic Boulevard, moderately increasing the amount of approved office use currently permitted in the DTC property as a whole – including the office permitted at Parc Dulles II – and permitting an employment-anchored mixed use "town center" area north of the mall. The subject application, along with the Dulles Town Center rezoning (ZMAP 2007-0001/ZCPA 2007-0001) implements a cohesive plan for the DTC property that accomplished the following important goals:

- Implements a unified master plan, which establishes the area with Route 28 frontage as the Keynote Employment Center, with the mixed use Urban Center east of Atlantic;
- Slightly increases currently approved amount of office in the overall DTC property;
- Enhances value and marketability of Keynote office; and
- Integrates additional high density residential land use along with small amount of targeted retail options into specific components of the DTC property.

We acknowledge that the Urban Center policies envision an area of 50-90 acres as the Urban Center which is not large enough to encompass the subject property, located on the southeast corner of the 550+ acre DTC property. As noted above, however, the Plan anticipated growth and change in the Urban Center. In particular, the Plan envisions that the Urban Center will build on the existing mall, which should not be viewed as separate from the Urban Center but rather part of the Urban Center.

All of the DTC property is planned for Keynote Employment Center, which excludes residential land use and all but accessory retail. Clearly, however, the DTC property is neither envisioned for nor developed as 100% office. We acknowledge the

**PARC DULLES II**  
Zoning Map Amendment  
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Revised August 31, 2009

---

intent of the Plan to ensure that the DTC property, which is developing with a mix of uses, will have a very strong employment component. Destination Retail and Keynote Employment Uses have been well established in other parts of the DTC property. In particular, Keynote Employment Center uses have been established in the corridor between Atlantic Boulevard and Route 28, and this application contributes to consolidation of the large scale Keynote Employment Center uses in the appropriate location.

The proposed Parc Dulles II project is consistent with the Urban Center policies of the Plan and will function as a balanced node within the larger Urban Center. The subject Property is proposed for a mix of uses that are appropriate to the site so that all new uses are seamlessly integrated into the existing community. Further, the subject Property is appropriate for High Density Residential Use with densities 8.0 and 24 dwelling units per acre (*High-Density Residential uses will develop only in a limited number of locations...within the County's Urban Center...* Revised General Plan p. 6-15). Parc Dulles II is adjacent to existing multi-family residential land use and would extend high density residential along the east side of City Center Boulevard. This rezoning application proposes development of the Property at a density of 21 units per acre, including the ADU component.

The land use mix proposed by Parc Dulles II implements the Revised General Plan vision for the DTC quadrant of Routes 28 & 7 and productively implements the Urban Center policies. Table 2 presents the proposed land use mix for the Property and the land use mix recommended by the Urban Center policies, and Table 3 includes a graphic generally indicating the location of various land uses.

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Revised July 28, 2009  
Revised August 31, 2009

---

**Table 2: Proposed Land Use Mix <sup>1</sup>**

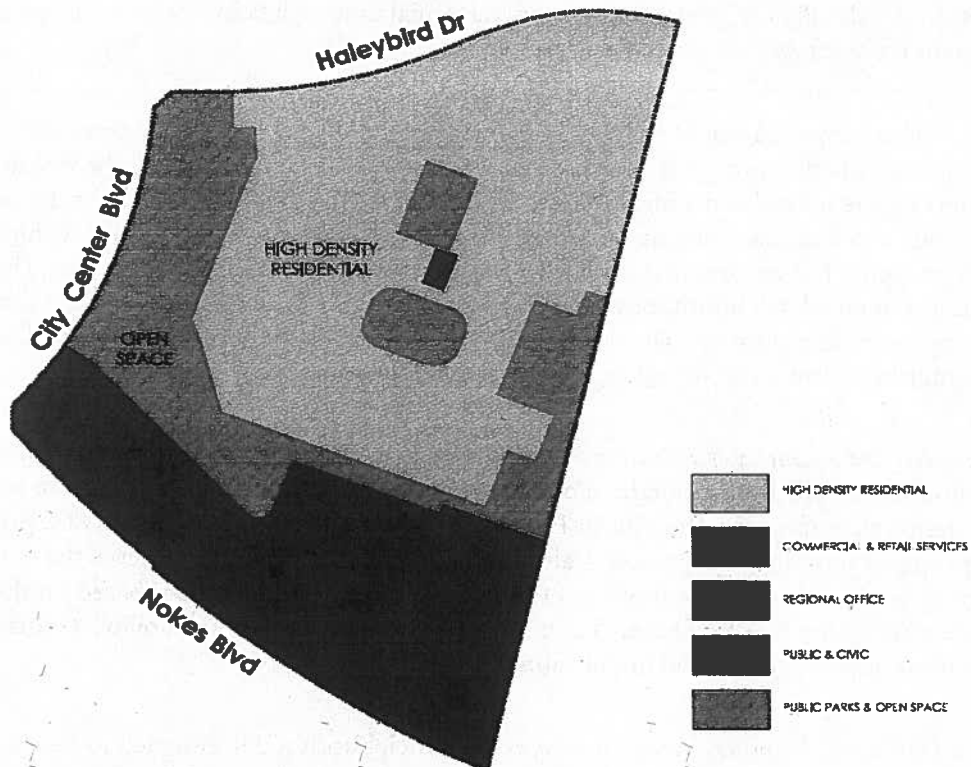
Use	Urban Center Policy	Proposed % Parc Dulles II	Area (AC)
High Density Residential	10%-25%	47%	16.2 AC
Commercial/Retail	10%-50%	11% <sup>2</sup>	3.9 AC
Regional Office	30%-50%	9% <sup>2</sup>	2.9 AC
Light Industrial	0%-20%	0%	0 AC
Public /Civic	Min 10%	10% <sup>3</sup>	3.4 AC
Parks/Open Space	Min 10%	23% <sup>4</sup>	7.7 AC

- 1 Plan policy specifies that parcels less than 50 acres in size that are not expected to develop as Keynote Employment Centers may vary from the anticipated land use mix, if it can be shown that adequate resources are located within 1,500'.
- 2 Range of office use provided: 40,000 sf to 100,000 sf, and range of retail provided: 0 sf to 60,000.
- 3 Civic uses provided include Club House and Fire and Rescue site.
- 4 Open space includes Village Green, Community Green, Pool Facility, Tree Conservation Area and a portion of the buffer area.

**PARC DULLES II**  
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 Revised March 14, 2008  
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 Revised August 31, 2009

**REVISED GENERAL PLAN LAND USE**

**Table 3**



**PARC DULLES II**

Land Use Category	Minimum Percentage	Maximum Percentage	Area (Acres)
HIGH DENSITY RESIDENTIAL	10%	25%	4% (16.2 AC)
COMMERCIAL & RETAIL SERVICES	10%	50%	11% (3.9 AC)
REGIONAL OFFICE	0%	50%	9% (2.9 AC)
OVERALL OFFICE & LIGHT INDUSTRIAL	32%	70%	9% (2.9 AC)
PUBLIC & CIVIC	10%	No Max	10% (3.4 AC)
PUBLIC PARKS & OPEN SPACE	10%	No Max	23% (7.7 AC)
			34.1 AC

SEPTEMBER 2009

**PARC DULLES II**  
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*Revised July 28, 2009*  
*Revised August 31, 2009*

---

**Design.** Parc Dulles II is an important piece of the larger Urban Center. Within the DTC property, the amounts of office, commercial, and retail uses far outstrip the amount of residential uses. If Dulles Town Center is ultimately to evolve into an Urban Center as called for by the Plan, a greater number of residential units will help advance this notion of a vibrant community.

This proposed neighborhood is an extension of another residential neighborhood nearing construction just to the north of the Property. With Parc Dulles II, the Applicant is connecting the several residential projects within the DTC property. This interrelationship will create a rich urban fabric that provides both a protected residential "zone" within the DTC property, but ensures that it is well-connected to the balance of uses on site. The distinct residential neighborhoods will not be singular and disconnected like many suburban developments found today. The relationship of each neighborhood to the next will be accomplished through architecture, streetscape, layout and pedestrian linkages.

*Mix of uses and consistency of architecture.* Parc Dulles II will be a rich and varied apartment neighborhood, which incorporates a community-scale office/retail component. In addition to a design that integrates the subject Property into the existing fabric of the DTC property, the proposal adds an appropriately scaled office/retail center, which will serve the entire existing residential component of the DTC property. The architecture is based on the residential portion of Parc Dulles II and the land plan emphasizes walkability. Conceptual elevations have been included in the submission packet.

*Pedestrian-Friendly/Carefully-crafted Streetscapes.* This neighborhood is designed to be pedestrian-friendly. The pedestrian linkages planned for this development will connect directly to the Dulles Town Center mall. A complete development-wide pedestrian network has been designed in the form of a master pedestrian sidewalk and trails plan for Dulles Town Center. The streets that traverse the site conduct traffic, both pedestrian and automobile, through the site. There are planting strips and sidewalks on both sides of the street, continuous street trees, and parallel, on-street parking. The buildings front onto the streets. There are doors and windows on the street, and parking is behind the buildings.

*Interconnected Public Realm.* Parc Dulles II attempts to create a strong sense of public realm. Traditional planning places emphasis on separating public from private uses, and public from service uses. The proposed design operates within this planning tradition. Handsome fronts create the street edges. The parking courts are located behind the buildings, completely hidden from view.



**PARC DULLES II**  
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*Revised August 31, 2009*

---

The design of Parc Dulles II helps to create an attractive sequence of spaces. As one enters Parc Dulles II from the north and the adjacent Parc Dulles neighborhood, there is a formal square arrived at by passing underneath an overhead bridge. One passes in front of the main building and is drawn to a second square that seeks to join the two neighborhoods together. One crosses into the new neighborhood, proceeds down the street to arrive in another open square that is the living room of this neighborhood. Again the main building with its neighborhood and community functions sits on the square and acts like a public building. A street from the west joins the square; but traveling further south, one arrives at another small square that will serve as an entry vestibule to the neighborhood when arriving from the south.

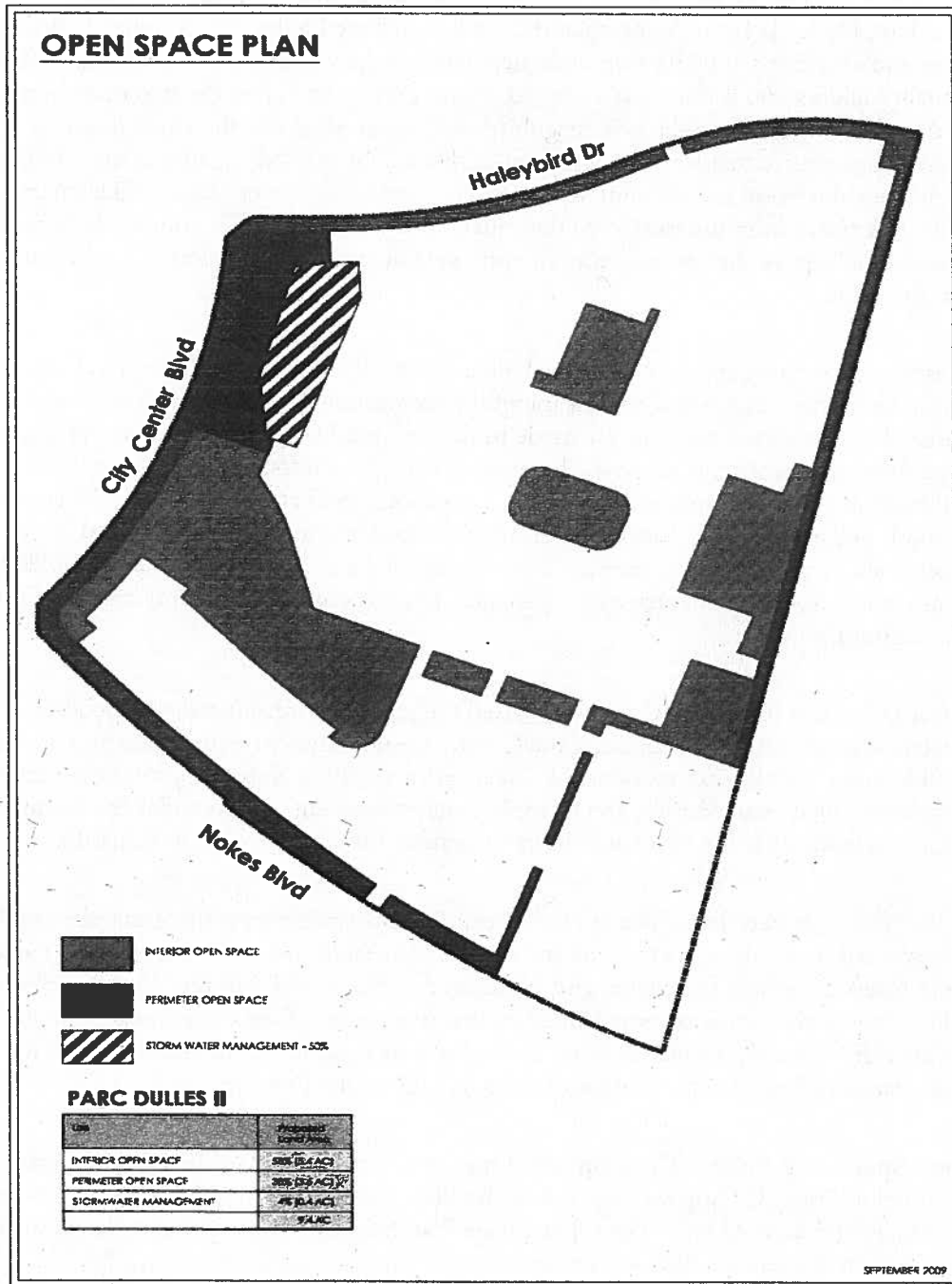
*Connectivity.* Another aspect of traditional planning is connectivity. The aim is to make this neighborhood well connected and meaningfully connected to the surrounding Town Center. Four street connections are made to the ring road from these two neighborhoods. A pedestrian connection is proposed between the neighborhoods from the two neighborhood centers. One can walk along a handsome pedestrian walk from the square in the south neighborhood, through the lobby of the building to the garden behind, down a garden walk across the street, through the building to the courtyard of the main building in the north neighborhood to arrive in the square. The walk links the amenity spaces of the two neighborhoods.

**Green Infrastructure.** The County's Revised General Plan introduced new policies directed at preserving and enhancing the County's Green Infrastructure. Chapter 5 of the Plan identifies four key components of Green Infrastructure: Natural Resources; Heritage Resources; Open Space Assets; and Complementary Elements. Also under the Natural Resources category is the River and Stream Corridor Overlay District, or RSCOD.

The Applicant has evaluated the Green Infrastructure elements of this site and has incorporated those elements into the site design. The site is heavily wooded and an analysis of the forest cover was completed and is included as Sheet 3 of 5 of the ZMAP application. Delineation of the save areas was guided by this tree survey. Less than one acre of wetlands was identified on site; the wetlands are located within a portion of the site designed to remain undisturbed. There are no areas of RSCOD on the Property.

**Open Space and Public/Civic Space.** Open space was calculated based on criteria identified in Policy C9 (a-j) on page 6-8 of the Plan. Total open space and civic space on the site equals 11.1 acres (33%). The Open Space Plan below provides detail on location and type of open spaces included on the site.

**PARC DULLES II**  
 Zoning Map Amendment  
 - Statement of Justification -  
 August 6, 2002  
 Revised October 7, 2002  
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 Revised February 20, 2009  
 Revised July 28, 2009  
 Revised August 31, 2009



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Zoning Map Amendment  
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*Revised July 28, 2009*  
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---

Wildlife habitat and vegetation are addressed in Response 9 below. Archaeological resources are addressed in Response 16 below.

- 2) **Whether there are any changed or changing conditions in the area affected that make the proposed rezoning appropriate.**

The subject Property is part of almost 85 total acres of Planned Industrial ground that is no longer compatible with the County's and the Applicant's desire for an Urban Mixed Use community. Also, higher density residential land uses are more supportive than low intensity flex/light industrial of implementing the County's vision of a multi-modal transportation network in designated transit corridors. For this and the reasons set forth earlier, in order to achieve both the County's land use and transportation visions, greater numbers of residential units must be provided at Dulles Town Center in order to achieve a well functioning urban center at the Dulles Town Center.

- 3) **Whether the range of uses in the proposed zoning district classification are compatible with the uses permitted on other property in the immediate vicinity.**

The proposed uses are compatible with the planned uses in the immediate vicinity of the Property. The property immediately to the north is zoned for multi-family residential. To the south and east, properties are zoned PD-IP and developing as light-industrial/flex-office uses, which provide employment opportunities within biking/walking distance. To the west is Dulles Town Center, again, a recreational/ commercial amenity within walking distance of the proposed residential community.

- 4) **Whether adequate utility, sewer, and water, transportation, school and other facilities exist or can be provided to serve the uses that would be permitted on the property if it were rezoned.**

The Property is located within the Sterling community of the Suburban Policy Area, one of the most mature communities in Loudoun County. Public infrastructure such as water, sewer, and roads are in place (the Applicant and other allied partners have invested \$20 million in the regional road network to date). Schools, libraries, and other community facilities exist in the nearby communities of Countryside, Sterling, Potomac Lakes, and Cascades.

**PARC DULLES II**  
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*Revised July 28, 2009*  
*Revised August 31, 2009*

---

**5) The effect of the proposed rezoning on the County's ground water supply.**

The proposed development will be served by public water and sanitary sewer. Consequently, development of the site will not have any adverse impacts on the County's groundwater supply.

**6) The effect on uses allowed by the proposed rezoning on the structural capacity of the soils.**

The Existing Conditions Map reflects soil types and characteristics on the Property. A soils report will be submitted as part of the later steps in the process for the development of the Property. The soils report will identify potential limitations and determine appropriate engineering measures that may need to be undertaken during the development of the Property.

**7) The impact that the uses that would be permitted if the property were rezoned will have upon the volume of vehicular and pedestrian traffic and traffic safety in the vicinity and whether the proposed rezoning uses sufficient measures to mitigate the impact of through construction traffic on existing neighborhoods and school areas.**

The traffic study provides a detailed analysis of the traffic impacts associated with the proposed rezoning and finds that development of the site as multi-family residential would result in fewer AM peak, PM peak, and overall trips than development under the current PD-IP zoning.

Parc Dulles II is essentially a component of the larger Dulles Town Center community and therefore the majority of the transportation network improvements were addressed in the original rezoning application and subsequent development. All of the major road improvements are in place. The Applicant and other allied partners have invested approximately \$20,000,000 in regional roads and road improvements to date. The major improvements include: Dulles Town Circle, Nokes Boulevard, Atlantic Boulevard, City Center Boulevard, and Dulles Center Boulevard. In addition, the Applicant has provided a \$7.4 million contribution towards the construction of the Algonkian Parkway/Route 7 interchange.

**PARC DULLES II**  
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Revised August 31, 2009

---

- 8) **Whether a reasonably viable economic use of the subject property exists under the current zoning.**

The Property is currently zoned PD-IP, a district whose purpose is described as "...established for light and medium industrial uses, and necessary supporting accessory uses and facilities...". Although there may be other viable economic uses permitted on the property under the current zoning, many of these uses may no longer be appropriate or desirable given the changing character of the surrounding land uses as identified in Number 2 above. The desired and planned land use – Keynote Employment – is being established along Route 28.

- 9) **The effect of the proposed rezoning on the environment or natural features, wildlife habitat, vegetation, water quality and air quality.**

The Property will be served by public water and sewer and therefore will not impact the ground water or surface water quality. BMPs will be provided in accordance with County Facilities Standards Manual standards, which will assure acceptable water quality of stormwater runoff. A forested wetland area, approximate 2.5 acres in size, is incorporated into the CDP as Tree Conservation Area

Exhibit C is an assessment from the Virginia Department of Conservation and Recreation with regards to natural heritage resources such as endangered species and wildlife habitat. DCR's assessment determined that no impact natural heritage resources of concern is anticipated in relation to this project.

- 10) **Whether the proposed rezoning encourages economic development activities in areas designated by the Comprehensive Plan and provides desirable employment and enlarges the tax base.**

Development of the Property, if rezoned, will provide development-related construction employment opportunities. The resulting residential development will increase the assessed value of the Property. The relationship of the residential use to the surrounding employment and commercial uses will allow residents the opportunity to live closer to both work and other amenities such as entertainment, enhancing Dulles Town Center as a desirable place to 'live, work, and play.'

**PARC DULLES II**  
Zoning Map Amendment  
– *Statement of Justification* –  
August 6, 2002  
*Revised October 7, 2002*  
*Revised March 14, 2008*  
*Revised February 20, 2009*  
*Revised July 28, 2009*  
*Revised August 31, 2009*

---

- 11) Whether the proposed rezoning considers the needs of agriculture, industry and businesses in future growth.**

The Dulles Town Center property is under development as a mixed use 'urban center' and therefore no longer contributes to the agricultural economy of the County. Development of the Property with multi-family residential units will provide housing alternatives to the County's workforce, thereby supporting the needs of the County's employment sector.

- 12) Whether the proposed rezoning considers the current and future requirements of the community as to land for various purposes as determined by the population and economic studies.**

See responses to Numbers 1 and 11 above.

- 13) Whether the proposed rezoning encourages the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the County.**

See responses to Numbers 9 and 11 above.

- 14) Whether the proposed rezoning considers trends of growth or changes, employment, and economic factors, the need for housing, probably future economic and population growth of the County and the capacity of existing and/or planned public facilities and infrastructure.**

The proposal seriously considers growth impacts on the larger Loudoun community and uses this notion as a point of departure. By locating residential units in a mixed-use community, the Smart Growth Vision adopted by the Board of Supervisors is advanced. The County's vision is to develop places where people can live, work, play and shop all within easy walking distance. Dulles Town Center plans are evolving to meet this vision.

**PARC DULLES II**  
Zoning Map Amendment  
- Statement of Justification -  
August 6, 2002  
Revised October 7, 2002  
Revised March 14, 2008  
Revised February 20, 2009  
Revised July 28, 2009  
Revised August 31, 2009

---

- 15) **The effect of the proposed rezoning to provide moderate housing by enhancing opportunities for all qualified residents of Loudoun County.**

Pursuant to Section 7-102 of the Zoning Ordinance, affordable dwelling units (ADUs) are required to be provided in any development that is "(a) served by public water and sewer, and (b) the subject of an application for rezoning...which yields, as submitted by the applicant, fifty (50) or more dwelling units at an equivalent density greater than one unit per gross acre." Therefore, 6.25 percent or 28 of the proposed units will be offered as ADUs. The number and proposed location of the ADUs will be consistent with the requirements of Article 7 of the 1993 Zoning Ordinance.

- 16) **The effect of the rezoning on natural, scenic, archeological, or historic features of significant importance.**

A Phase I Archeological Survey dated October 2002 was completed by Thunderbird Archeological Associates, Inc. and found that the site has 'moderate' probability of yielding prehistoric and historic period archeological sites. The Phase I survey is attached. (See Exhibit B) The Archaeological Site has been denoted on the Rezoning Plat and included in the Tree Conservation Area to prevent disturbance. The proffers further commit to maintaining the site in an undisturbed condition and, if any unanticipated disturbance is required, that Phase II and III archaeological analyses will be provided as recommended.

**PHASING PLAN** If a development is proposed for construction in phases during a period extending beyond a single construction season, Checklist Item "N" requires that the Applicant submit a phasing plan that states "the proportion of the total public and private open space and public improvements and the proportion of each type of proposed use to be provided or constructed during each such stage."

Parc Dulles II will be "built-out" in a single stage, over a period of eighteen months, depending upon market conditions and product demands. ADU units will be provided based upon the phasing requirements of the 1993 Zoning Ordinance.

For Parc Dulles II, there is no "public" open space in the sense that it will be conveyed to Loudoun County. All open space will be "private" and maintained by an owners association.

Public roads are existing and are not subject to this application. Water and sewer is the other public improvement that will be constructed in accordance with LCSA guidelines to provide service to residential lots.

**PARC DULLES II**  
Zoning Map Amendment  
- *Statement of Justification* -  
August 6, 2002  
*Revised October 7, 2002*  
*Revised March 14, 2008*  
*Revised February 20, 2009*  
*Revised July 28, 2009*  
*Revised August 31, 2009*

---

**SUMMARY** The proposed development of Parc Dulles II at Dulles Town Center is in conformance with the policies of the applicable comprehensive plans and the regulations of the governing Zoning Ordinance. The development plan has been designed as one component within a larger 'Urban Center.' The Revised General Plan anticipates that this area will develop as a mixed use 'Urban Center' and therefore the change in use from planned industrial to high density residential would be appropriate. The Applicant, therefore, respectfully requests approval of the requested land development application.



## **PROPOSED MODIFICATIONS WITH JUSTIFICATION**

Modifications must achieve an innovative design, improve upon the existing regulations, or otherwise exceed the public purpose of the existing regulation (Sec. 6-1504).

### **4-205 LOT REQUIREMENTS**

(1) **4-205(C)(2). Yards; Adjacent to Agricultural and Residential Districts and Land Bays Allowing Residential Uses**

**Requirement:**

100' building, parking, refuse, and loading setback to residential district. No Parking, outdoor storage, refuse or loading shall be permitted between buildings or visible from residential areas. 10' minimum Type I rear buffer required.

**Modification:**

50' building, parking, refuse, and loading setback to residential district. No outdoor storage, refuse or loading shall be visible from residential areas. Parking shall be screened to the extent feasible. A 25' minimum Type II rear buffer is provided.

**JUSTIFICATION:**

The proposed application seeks to provide an innovative design that integrates the multi-family residential and neighborhood scale non-residential uses, resulting in a reduced separation between residential and non-residential buildings -- 75' instead of the cumulative 125' that would be required without modification. It provides for a more compact and walkable community.

Because a Type II buffer will be provided, however, the proposed modification will result in a more heavily landscaped if narrower separation between the residential and non-residential portions of the property. In particular, a Type II buffer incorporates evergreen trees into the landscaping of the buffer, while the required Type I buffer includes no evergreen plantings. Further, the proffers are revised to enhance the required buffer in the R-24 district from Type I to Type II.

**PARC DULLES II**  
Zoning Map Amendment  
- Statement of Justification -  
August 6, 2002  
Revised October 7, 2002  
Revised March 14, 2008  
Revised February 20, 2009  
Revised July 28, 2009  
Revised August 31, 2009

---

**Buffer between R-24 and PD-CC(CC) districts (added together)**

	<b>Required</b>	<b>Proposed</b>
Width	125'	75'
Landscaping (per 100' lineal feet)	2 canopy trees 8 understory trees	4 canopy trees 8 understory trees 20 shrubs 4 evergreen trees

The requirement that outdoor storage, refuse management and loading areas not be visible from the residential uses remains in place. The Type II buffer, with the evergreen component, is provided to ensure maximum screening of parking, while providing a well designed and pedestrian oriented mixed use environment.

**(2) 4-206(D)(2) Access to Major Collector**

**Requirement:**

Each Commercial Center shall provide convenient and coordinated vehicular access to public roadways as follows: Community Centers – Collector Roads

**Modification:**

Allow PD-CC(CC) Community Centers to provide vehicular access to a Major Collector Road (Nokes Boulevard)

**JUSTIFICATION:**

The subject property is bounded by 2 Major Collector Roads (Nokes and City Center Boulevard) and a Collector Road (Haleybird). The proposed modification permits internal access to be provided via two entrances – Haleybird and Nokes -- and a private street instead of a collector road. The proposed modification improves upon the existing regulation by supporting the use of private streets internally which supports a pedestrian friendly design that can balance pedestrian and vehicular connectivity between the residential and non-residential portions of the site.

A collector road or even minor collector road constructed to VDOT standards would not be appropriate as an internal roadway. These roadways are defined in the CTP as follows:

**PARC DULLES II**  
Zoning Map Amendment  
– Statement of Justification –  
August 6, 2002  
Revised October 7, 2002  
Revised March 14, 2008  
Revised February 20, 2009  
Revised July 28, 2009  
Revised August 31, 2009

---

Collector Road: A road into which local roads funnel and which, in turn, carries traffic to an arterial road. Ideally a collector road would have few private entrances accessing it directly.

Minor Collector Road: A roadway that carries traffic from local subdivision streets and rural secondary roads to major collectors and /or arterials.

Neither of these definitions are consistent with the function of the internal vehicular circulation needed for the subject property. Most importantly, construction of a broad collector road internally would undermine the quality of the pedestrian environment dramatically.

## SPEX 2008-0026

### Proposal to permit establishment of Fire/Rescue use of site

#### APPLICANT'S PROPOSAL

The Applicant proposes to dedicate approximately 3.3 acres to the County for a Fire/Rescue station. Fire/Rescue uses require a Special Exception approval, and this application proposes establishment of a Fire/Rescue station on the southeast corner of the Parc Dulles II property. The area of the Special Exception is slightly larger than the area of dedication because a portion of the "return route" roadway which is included in the Special Exception is not included in the dedication.

#### SPECIAL EXCEPTION FACTORS FOR CONSIDERATION

Section 6-1310 of the Zoning Ordinance outlines various factors for consideration in the review of a special exception request. The following is an analysis of these factors in relation to the Property:

(A) Whether the proposed special exception is consistent with the Comprehensive Plan.

This area is planned for Keynote Employment and/or Urban Center. In all cases, Fire/Rescue use is appropriate. The proposed site is located adjacent to a major collector road and is well-located in close proximity to Dulles Town Center, a major destination retail location.

(B) Whether the proposed special exception will adequately provide for safety from fire hazards and have effective measures of fire control.

The proposed development will enhance the safety of structures within its service area.

(C) Whether the level and impact of any noise emanating from the site, including that generated by the proposed use, negatively impacts the uses in the immediate area.

Fire/Rescue staff for Loudoun County have worked closely with many neighborhoods to ensure that potential noise concerns are addressed. Numerous policies and practices have been refined over time to protect neighborhoods from the impacts of this important public safety feature. Fire/rescue stations must meet state code requirements to ensure adequate warning of the presence of emergency vehicles, but, again, the County has successfully managed the integration of emergency services into various neighborhood settings.

**PARC DULLES II**  
Zoning Map Amendment  
– Statement of Justification –  
August 6, 2002  
Revised October 7, 2002  
Revised March 14, 2008  
Revised February 20, 2009  
Revised July 28, 2009  
Revised August 31, 2009

---

- (D) Whether the glare or light that may be generated by the proposed use negatively impacts uses in the immediate area.

See “C” above.

- (E) Whether the proposed use is compatible with other existing or proposed uses in the neighborhood, and adjacent parcels.

The subject property is proposed community center use and multi-family residential and is compatible with all surrounding development. A 50' landscaped buffer and a parking area separate the proposed multi-family residential units from the fire/rescue station. Again, numerous stations are located within neighborhoods in close proximity to residential uses. Fire/Rescue stations are considered good neighbors.

- (F) Whether sufficient existing or proposed landscaping, screening and buffering on the site and in the neighborhood will adequately screen surrounding uses.

The required buffer will be provided.

- (G) Whether the proposed special exception will result in the preservation of any topographic or physical, natural, scenic, archaeological, or historic feature of significant importance.

While not located on the Special Exception area, an archaeological site is present on the subject property, and, consistent with County policy, the Applicant has proffered to preserve the site. The Rezoning Plan indicates that the archaeological site is planned for preservation.

- (H) Whether the proposed special exception will damage existing animal habitat, vegetation, water quality (including groundwater) or air quality.

Stormwater management will be provided offsite and integrated into the stormwater management system for the entire Property. Recognizing the potential for the Fire/Rescue station to be developed prior to the commercial center, the Applicant has agreed to provide easements that may be needed for temporary stormwater facilities.

There are no wetlands or other sensitive features that require preservation on the area of land proposed for dedication to Loudoun County for the fire/rescue station.

**PARC DULLES II**  
Zoning Map Amendment  
- *Statement of Justification* -  
August 6, 2002  
*Revised October 7, 2002*  
*Revised March 14, 2008*  
*Revised February 20, 2009*  
*Revised July 28, 2009*  
*Revised August 31, 2009*

---

- (I) **Whether the proposed special exception at the specified location will contribute to or promote the welfare or convenience of the public.**

Fire/rescue facilities are vital elements of the public safety system in Loudoun County. The proposed location meets the County's need for a fire/rescue station in this area of the County.

- (J) **Whether the traffic expected to be generated by the proposed use will be adequately and safely served by roads, pedestrian connections and other transportation services.**

The roadway infrastructure surrounding the property is complete. DTC is virtually the only development in Loudoun where the road infrastructure was completed well in advance of the approved land use. The circulation within the proposed fire/rescue station is completely segregated from other on-site traffic, other than an additional return option for fire/rescue vehicles.

- (K) **Whether, in the case of existing structures proposed to be converted to uses requiring a special exception, the structures meet all code requirements of Loudoun County.**

N/A

- (L) **Whether the proposed special exception will be served adequately by essential public facilities and services.**

Water and sewer service will be extended to the site.

- (M) **The effect of the proposed special exception on groundwater supply.**

None. The site is served by central water and sewer.

- (N) **Whether the proposed use will affect the structural capacity of the soils.**

A soils report, as required, will be submitted at site plan.

- (O) **Whether the proposed use will negatively impact orderly and safe road development and transportation.**

No. The surrounding road network is complete. Internal access is provided and addresses the potential for the Fire/Rescue site to develop prior to the commercial center.

**PARC DULLES II**  
Zoning Map Amendment  
- Statement of Justification -  
August 6, 2002  
Revised October 7, 2002  
Revised March 14, 2008  
Revised February 20, 2009  
Revised July 28, 2009  
Revised August 31, 2009

---

- (P) **Whether the proposed special exception use will provide desirable employment and enlarge the tax base by encouraging economic development activities consistent with the Comprehensive Plan.**

The project will contribute to a strong public safety network, which, in turn, enhances the attractiveness of Loudoun County to residents and employers, alike.

- (Q) **Whether the proposed special exception considers the needs of agriculture, industry, and businesses in future growth.**

See "P" above.

- (R) **Whether adequate on and off-site infrastructure is available.**

All utilities and transportation infrastructure are available to the site.

- (S) **Any anticipated odors which may be generated by the uses on site and which may negatively impact adjacent uses.**

None.

- (T) **Whether the proposed special exception uses sufficient measure to mitigate the impact of construction traffic on existing neighborhoods and school areas.**

Construction traffic will not traverse the area proposed for residential land use. Further, it is likely that the fire/rescue station is complete before residential uses are established on site.

## **SPEX 2008-0027**

### **Proposal to permit establishment of Office Use in Excess of 20% of Total Square Footage**

#### **APPLICANT'S PROPOSAL**

The Applicant proposes a PD-CC(CC) zoning district at the southern edge of the Parc Dulles II property. A total of 117,000 square feet of space is proposed as follows:

17,000 – Fire/Rescue station

Up to 60,000 – Commercial

Up to 100,000 – Office

The PD-CC(CC) zoning district only permits up to 20% of the total floor area to be developed as office, however. Office uses exceeding 20% are permitted by Special Exception. Only 23,400 sf of office uses are permitted by right in the proposed PD-CC(CC) district; we are seeking a Special Exception to increase office space by 76,600 so that up to 100,000 sf of office may be developed on the site.

#### **SPECIAL EXCEPTION FACTORS FOR CONSIDERATION**

Section 6-1310 of the Zoning Ordinance outlines various factors for consideration in the review of a special exception request. The following is an analysis of these factors in relation to the Property:

**(A) Whether the proposed special exception is consistent with the Comprehensive Plan.**

Office use, well in excess of the 40,000 – 100,000 sf proposed, is currently approved for the site. The Plan designations of Keynote Employment and Urban Center both support development of office on the site.



**PARC DULLES II**  
Zoning Map Amendment  
– Statement of Justification –  
August 6, 2002  
Revised October 7, 2002  
Revised March 14, 2008  
Revised February 20, 2009  
Revised July 28, 2009  
Revised August 31, 2009

---

- (B) Whether the proposed special exception will adequately provide for safety from fire hazards and have effective measures of fire control.

The proposed office use will be developed with all required fire safety equipment.

- (C) Whether the level and impact of any noise emanating from the site, including that generated by the proposed use, negatively impacts the uses in the immediate area.

No. The proposed location of office, typically a very quiet use, is at the southeast corner of the property, away from proposed residential uses.

- (D) Whether the glare or light that may be generated by the proposed use negatively impacts uses in the immediate area.

No. The Applicant will provide shielded lighting fixtures to prevent glare and light trespass and would support a condition to that effect.

- (E) Whether the proposed use is compatible with other existing or proposed uses in the neighborhood, and adjacent parcels.

The subject property is proposed for community center use and an increased office component is desirable. A significant landscaped buffer and a parking area separate the proposed multi-family residential units from the proposed office uses.

- (F) Whether sufficient existing or proposed landscaping, screening and buffering on the site and in the neighborhood will adequately screen surrounding uses.

The required buffer will be provided.

- (G) Whether the proposed special exception will result in the preservation of any topographic or physical, natural, scenic, archaeological, or historic feature of significant importance.

The proposed Special Exception does not increase the amount of square footage to be constructed, it merely allows the mix of uses to include more than 20% office.

- (H) Whether the proposed special exception will damage existing animal habitat, vegetation, water quality (including groundwater) or air quality.

Except for an area of a manmade drainage way where wetlands have been established, there are no wetlands or other sensitive features that require preservation on the area of land proposed for the office area. Any required mitigation will be provided.

PARC DULLES II  
Zoning Map Amendment  
- Statement of Justification -  
August 6, 2002  
Revised October 7, 2002  
Revised March 14, 2008  
Revised February 20, 2009  
Revised July 28, 2009  
Revised August 31, 2009

---

- (I) Whether the proposed special exception at the specified location will contribute to or promote the welfare or convenience of the public.

Increasing office options, as proposed, will provide more options for employment as well as office-based services such as tax, legal, medical and other similar uses that will not necessarily locate in the larger office buildings planned for the land bays west of Atlantic.

- (J) Whether the traffic expected to be generated by the proposed use will be adequately and safely served by roads, pedestrian connections and other transportation services.

Office uses generate less traffic than retail uses, so increasing the proportion of the site to be developed with office will reduce the traffic impacts.

- (K) Whether, in the case of existing structures proposed to be converted to uses requiring a special exception, the structures meet all code requirements of Loudoun County.

N/A

- (L) Whether the proposed special exception will be served adequately by essential public facilities and services.

All public utility infrastructure is available to the site.

- (M) The effect of the proposed special exception on groundwater supply.

None. The site is served by central water and sewer.

- (N) Whether the proposed use will affect the structural capacity of the soils.

A soils report, as required, will be submitted at site plan.

- (O) Whether the proposed use will negatively impact orderly and safe road development and transportation.

No. The current road network is complete.

PARC DULLES II  
Zoning Map Amendment  
– Statement of Justification –  
August 6, 2002  
Revised October 7, 2002  
Revised March 14, 2008  
Revised February 20, 2009  
Revised July 28, 2009  
Revised August 31, 2009

---

- (P) **Whether the proposed special exception use will provide desirable employment and enlarge the tax base by encouraging economic development activities consistent with the Comprehensive Plan.**

The project will increase the amount of office over what is permitted by the proposed zoning district, and the additional office is of value from a tax base perspective.

- (Q) **Whether the proposed special exception considers the needs of agriculture, industry, and businesses in future growth.**

The proposed office will provide more options for employment as well as office-based services such as tax, legal, medical and other similar uses that will not necessarily locate in the larger office buildings planned for the land bays west of Atlantic.

- (R) **Whether adequate on and off-site infrastructure is available.**

All utilities and transportation infrastructure are available to the site.

- (S) **Any anticipated odors which may be generated by the uses on site and which may negatively impact adjacent uses.**

None.

- (T) **Whether the proposed special exception uses sufficient measure to mitigate the impact of construction traffic on existing neighborhoods and school areas.**

Construction traffic will not traverse the area proposed for residential land use. Further, it is likely that the fire/rescue station is complete before residential uses are established on site.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Referral Comments**

February 20, 2009

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**COMMUNITY PLANNING**

*(Comments dated June 20, 2008)*

**A. LAND USE**

**Comment:** Staff finds that Parc Dulles II is not consistent with the Revised General Plan's land use policies and land use mix envisioned for the subject property. To be in conformance with the Plan, the application should be revised to provide 100% large-scale office uses supported by ancillary retail and personal services, along with the appropriate amount of public/civic and parks/open space. Residential uses should not be included within the land use mix. Staff is not able to support the application as proposed.

**Response:** During Planning Commission review of this application in July, 2004, the Applicant was asked to evaluate the planning for this property in relation to the larger Dulles Town Center property. The owner/applicant, Lerner Enterprises, subsequently engaged in a master planning process to ensure that the Dulles Town Center evolves as planned to encompass the County's planned Urban Center. To implement the revised plan, the area to the north and west of the mall is proposed to be rezoned to a mixed use urban center (north of the existing mall) and a significant office campus (adjacent to Route 28).

An overarching goal of the planning for Dulles Town Center is to ensure that the planned amount of office space is not diminished, even as a richer, more varied and dynamic land plan is created. At the same time, we recognize that the roadway network was designed to accommodate the currently planned amount of office space, so a dramatic increase in office is not proposed.

The Parc Dulles application supports this effort to maintain the currently planned amount of office space and locate it in the planned Urban Center. By not developing the allowed 500,000+ square feet of non-residential space at Parc Dulles, that same amount of space can be incorporated into the Urban Center as part of the DTC rezoning case without dramatically increasing the amount of commercial space currently approved.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

**B. EXISTING CONDITIONS**

**1. Forests, Trees, and Vegetation**

**Comment:** Staff finds that the forestal policies of the Revised General Plan have not been addressed. Staff recommends the applicant revise the CDP to incorporate additional tree save areas, especially where there are specimen trees, as part of the development's open space. Staff also recommends the applicant identify on Sheet 4 of the CDP those specimen trees that will be preserved.

**Response:** The Applicant has identified specimen trees on the CDP and has committed to a minimum 1.8 acres tree conservation area.

**2. Stormwater Management**

**Comment:** Staff defers to the County's Environmental Review Team for specific recommendations related to stormwater management.

**Response:** Acknowledged.

**3. Wetlands**

**Comment:** Staff recommends the applicant verify, through the USCOE, whether the wetlands are jurisdictional. If so, staff recommends the applicant avoid or minimize impacts to the greatest extent possible.

**Response:** The Applicant has submitted the wetlands report to the USCOE for jurisdictional determination and will update the County when the determination is available.

**4. Steep Slopes**

**Comment:** Staff requests the applicant indicate steep slopes on Sheet 2 of the CDP. Staff requests the applicant revise Sheet 4 of the CDP to show how the steep slopes adjacent to the eastern boundary may be impacted.

**Response:** Steep slopes have been identified on the Existing Conditions Plat. All on site steep slopes are man made as part of the construction of adjacent roadways and drainage channels. The Applicant has requested copies of the appropriate CPAPs and grading permits and will provide this additional information as soon as it is available.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

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5. Historic Resources

**Comment:** Staff's review of the historic resources on-site will be submitted under separate cover.

**Response:** Acknowledged.

C. **SITE DESIGN**

**Comment:** Due to the significant land use issues related to the application, staff will not address site design issues at this time. Should this application proceed further, staff will provide comments related to site design for Keynote Employment land uses.

**Response:** As noted in the Statement of Justification, this project is proposed as an extension of the well received Parc Dulles project located immediately to the north of Parc Dulles II. Strong pedestrian orientation defines the project, and centrally located amenities provide both a civic focal point and excellent recreational options. Meeting spaces and other leisure-oriented indoor gathering places are provided as well.

The Applicant proposes to use the same design approach; we recommend a site visit with staff to discuss the design, any adjustments staff might identify and perhaps a set of design guidelines that would provide assurances that the Parc Dulles design would be used on Parc Dulles II.

**OFFICE OF TRANSPORTATION SERVICES (OTS)**

*(Comments dated June 3, 2008)*

**Comment 1:** A traffic study was not submitted with this application. A traffic study, scoped in keeping with Loudoun County FSM and VDOT Chapter 527 requirements, is needed to understand the impacts of this proposed development on the surrounding road network. Any previous discussions and commitments related to transportation with the previous application need to be reviewed in light of the updated traffic study.

**Response:** A traffic study has been submitted pursuant to scoping agreement dated March 12, 2008 that ensures the analysis covers both the DTC and the Parc Dulles II applications.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

**Comment 2:** The concept plan shows a right-in right-out entrance onto City Center Boulevard which does not appear essential for traffic circulation and will create friction on northbound travel on City Center Boulevard. Therefore, it is recommended that this entrance be removed from the concept plan.

**Response:** Northbound friction will be minimized at this location as the right-in/right-out has always been planned at this location. A curb cut and right turn lane exist at the planned entrance location and were constructed pursuant to the CPAP for City Center Boulevard. The turn lane will require restriping to function as such, but will minimize any northbound friction not addressed by the light-controlled intersection at City Center and Nokes. Lane striping for this section of City Center Boulevard has been shown on the Rezoning Plat.

**Comment 3:** When is Haleybird Drive expected to be connected to the east to Ridgetop Circle? Please update.

**Response:** The Applicant is currently proffered to construct a half section of Haleybird Drive off – site to connect with Ridgetop Circle – though timing is not specified. In addition, construction of a full, 4-lane section of Haleybird on site is complete. The Applicant proposes to revise the proffers to commit to construct the connection of Haleybird Drive to Ridgetop prior to issuance of the first certificate of occupancy for the residential portion of Parc Dulles II.

**Comment 4:** Recommendations for improvements to the area road network and transit will follow after review of an acceptable traffic study from the applicant.

**Response:** Traffic study for the DTC application addressed Parc Dulles II, and 8 copies were submitted to the County on February 13, 2009.

**ENVIRONMENTAL REVIEW TEAM (ERT)**

*(Comments dated June 20, 2008)*

***Regarding Streams and Wetlands***

**Comment 1:** Note 19 on Sheet 1 indicates that the wetland delineation depicted on the property has not been confirmed by the Army Corps of Engineers (Corps). Please submit the wetland delineation to the Corps for confirmation. In addition, please indicate the wetland and stream classification (e.g., palustrine forested wetland, intermittent stream) in the Legend on Sheets 2 and 4 and update Note 19 to reflect the Jurisdictional Determination once it has been issued [e.g., Jurisdictional

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

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waters and wetlands depicted on the plan were delineated by Wetlands Studies and Solutions and confirmed by Army Corps of Engineers JD (number), issued on (date)].

Response: As noted in response to Community Planning comment # 3, above, the requested jurisdictional determination will be provided upon receipt from the USCOE.

**Comment 2:** The riparian corridor that originates on the Parc Dulles II property drains northwest through the Parc Dulles property, where it becomes Minor Floodplain, through the parcels included Dulles Town Center Rezoning (ZMAP-2007-0001), where it has been delineated as a perennial stream, to the stormwater management pond serving the Dulles Town Center property, near the Route 7/Route 28 interchange, to Broad Run. The two active rezoning applications associated with Dulles Town Center offer a unique opportunity to preserve this riparian corridor and its remaining forested buffer. Preservation and enhancement of this forested riparian corridor is imperative to minimizing the impacts of the proposed development on water quality, a matter of consideration outlined in Section 6-1211.E.9 of the Revised 1993 Zoning Ordinance.

Response: The Applicant desires to minimize the impact of storm water management facilities while, of course, protecting down stream water quality. Because the perennial stream flows through the subject property of both zoning proposals, the Applicant has coordinated with ERT staff to pursue a regional stormwater management solution for the two applications in relation to the existing stormwater management pond in the southeast quadrant of the Route 28/7 interchange. As the regional stormwater solution depends on VADEQ approval, the Applicant has continued to depict possible SWM/BMP locations on site should the regional approach fail. In either case, where appropriate, the Applicant will use LID methods to treat water quality before it enters the riparian corridor.

**Comment 3:** Impacts to wetlands are currently proposed to accommodate a road crossing, an office/retail building, a parking area, and a stormwater management facility. Staff emphasizes the importance of avoiding and minimizing impacts to wetlands and encourages the applicant to revise the development layout to further avoid impacts to wetlands and forested riparian buffers.

Where impacts to wetlands are deemed unavoidable, staff emphasizes the importance of mitigating wetland and stream impacts in close proximity to impacts to help maintain water quality and flood protection benefits, as well as habitat. Therefore, staff recommends that the applicant commit to prioritizing mitigation as follows: 1) onsite, 2) within the Broad Run Watershed within the same Planning



PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

Policy Area, 3) within the Broad Run Watershed outside the Planning Policy Area, and 4) Loudoun County, subject to approval by the U.S. Army Corps of Engineers (Corps) and the Virginia Department of Environmental Quality (DEQ). This approach is consistent with Policy 23 on Page 5-11 of the RGP which states that "the County will support the federal goal of no net loss to wetlands in the County." Furthermore, the County's strategy is to protect its existing green infrastructure elements and to recapture elements where possible [RGP, Page 6-8, Green Infrastructure Text].

Response: Because the timing of development is not known, the mitigation needs and options that may be available at the time of development are not known. The U.S. Army Corps of Engineers (USCOE), as the agency primarily responsible for the implementation of Section 404 of the Clean Water Act (which establishes the federal regulatory framework for wetlands) provides, and has provided for many years, the most consistent, predictable and effective set of regulations for wetlands protection. Any proposed impacts to wetlands, or other "waters of the U.S.," can only be made with the approval of the USCOE and its sister agency at the state level, the Virginia Department of Environmental Quality. The Applicant recommends that the state and federal regulatory framework for wetlands protection provides ample assurance that wetlands will be protected, and where necessary, impacts properly mitigated.

***Regarding Forest Cover***

**Comment 4:** Sheet 3 of the rezoning plat provides a list of 24 specimen trees, which are depicted on the Existing Conditions Plan (Sheet 2). Please depict specimen trees on the Rezoning Plat (Sheet 4), or a land use map that overlays the proposed land uses over the existing conditions consistent with Item L.2 of the Rezoning Checklist, so that opportunities to preserve existing specimen trees may be evaluated.

Response: Specimen trees have been incorporated into the Rezoning Plat, and several trees are proposed to be incorporated into tree save areas. In addition, the archaeological site has been included as tree save.

**Comment 5:** Staff recommends that Tree Save Areas be identified as Tree Conservation Areas and that Proffer VIII.C. be updated consistent with the Sample Tree Conservation Area Language (attached) approved by the County Arborist to ensure the preservation of identified Tree Conservation Areas.

Response: Tree Save Areas are redesignated as Tree Conservation Areas.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

**Comment 6:** Staff recommends that the Tree Conservation Area surrounding jurisdictional waters and wetlands be expanded to provide a minimum 50-foot buffer surrounding these features. Expansion of the buffer is necessary to minimize impacts to jurisdictional features, to provide adequate separation between existing natural drainage systems and the proposed land uses, and to ensure the viability of proposed Tree Conservation Areas.

**Response:** The Applicant has provided buffers where possible and will collaborate with VADEQ and the County to minimize wetlands impacts at site plan.

**Comment 7:** The Forest, Trees, and Vegetation Policies of the RGP encourage the preservation of existing vegetation (Page 5-32). The County Arborist has visited the site, and has indicated that the existing forest stand on the property is a pole to sawtimber size mixed hardwood stand (e.g., white oak, red oak, hickory, green ash) worthy of preservation. Therefore, staff recommends that the Archeology Preserve Area, the Community Green and Tot Lot, and the Village Green be added to the designated Tree Conservation Areas. Staff notes that the sample Tree Conservation Area Language allows 20 percent of the cumulative tree cover to be removed, which should accommodate the proposed uses in these areas.

**Response:** Please confer with Community Planning and Zoning regarding tree conservation on the Community Green and Tot Lot. There appears to be an internal policy conflict regarding whether the Applicant must provide the Community Green and Tot Lot as relatively cleared open space or not. Notwithstanding, the proximity of construction to these locations makes them poor candidates for successful tree conservation areas. If trees are desired, a landscaping plan/element is probably more likely to provide a successful approach.

***Regarding Threatened and Endangered Species***

**Comment 8:** Staff notes that Item 9 in the Statement of Justification references Exhibit C, which is identified as “an assessment from the Virginia Department of Conservation and Recreation with regards to natural heritage resources such as endangered species and wildlife habitat;” however, a copy of Exhibit C was not included in the application materials. Please forward a copy of Exhibit C with the subsequent submission.

**Response:** DCR correspondence was included in the original submission and is attached here.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

***Regarding Soils and Steep Slopes***

**Comment 9:** Please depict Moderately Steep and Very Steep Slopes as identified in the Loudoun County Geographic Information System (LOGIS) on the Existing Conditions Plan (Sheet 2) and the Concept Development Plan (Sheet 4) (or a land use map that overlays the proposed land uses over the existing conditions). In addition, please update Note 23 on Sheet 1 to indicate the presence of steep slopes on the property. Staff notes that steep slopes present on the property are primarily manmade with the exception of a forested Moderately Steep Slope along the eastern property boundary that lies within the designated 25-foot side yard.

**Response:** The Applicant has depicted steep slopes on the Existing Conditions sheet and notes that all steep slopes on site were manmade. The steep slopes along the northern and western boundaries were created in association with the road improvements and the steep slopes along the eastern property boundary were created by the adjacent owner, Continental Ridgetop Associates LP as part of their site plan. The Applicant has requested copies of the appropriate site plans, CPAPs and grading permits and will provide this information as it becomes available.

**Comment 10:** Please identify Mapping Unit 69A as a hydric soil in the Soils Type Description table on Sheet 2.

**Response:** Revised as requested.

***Regarding Stormwater Management and Best Management Practices***

**Comment 11:** Two possible Stormwater Management (SWM)/Best Management Practice (BMP) facilities are currently depicted on the Concept Development Plan. Additional information is needed regarding the type of facilities proposed consistent with Item K.4. of the Rezoning Checklist.

In addition, Proffer III (Stormwater Management and Water Quality) indicates that the property will be developed using a combination of the approved stormwater management facility at Dulles Town Center and on-site BMPs. The existing pond in the Northwest corner of Dulles Town Center, adjacent to the Route 7/Route 28 interchange, was designed to function as a dry pond and drain within 24 hours. However, due to the fact that the pond is located online with a perennial stream, it is maintaining a permanent pool of water. This permanent pool of water effectively reduces the volume of the pond, causing it not to function as designed. During review of the Dulles Town Center Rezoning, staff previously recommended that this

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

facility be converted to a wet pond, with aquatic and maintenance benches, which would increase the pollutant removal capability of the facility, while minimizing the need for ongoing maintenance. A wet pond would also improve the condition of the pond, providing a desirable community amenity.

Staff would like to engage in additional discussion with the applicant regarding the proposed stormwater management approach for the property and the overall Dulles Town Center project.

Response: The Applicant concurs and desires to minimize the impact of stormwater management facilities while, of course, protecting down stream water quality. The Applicant met with ERT staff on February 18, 2009 to pursue a regional stormwater solution for the two applications enlarging the existing stormwater management pond at Routes 7 and 28. As the regional stormwater solution depends on VADEQ approval, the Applicant has continued to depict possible SWM/BMP locations on site should the regional approach fail. In either case, the Applicant will use LID methods, as appropriate, to treat water quality before it enters the riparian corridor.

***Regarding Noise Impacts***

**Comment 12:** The property is located at the intersection of two four-lane, Major Collector roadways; Nokes Boulevard and City Center Boulevard, and includes residential uses. Therefore, staff recommends that the applicant consider the following noise study commitment, similar to commitments provided with other approved rezoning projects:

“The applicant will provide a noise impact study to the County that will determine the need for any additional buffering and noise attenuation measures along Nokes Boulevard and City Center Boulevard. The noise impact study shall be based upon the ultimate road configuration as defined in the Revised Countywide Transportation Plan and the ultimate design speed. Traffic volumes for these roadways will be consistent with either the 2030 forecast from the Loudoun County Transportation Forecasting Model or volumes projected at a time 10-20 years from the start of construction as confirmed by the Office of Transportation Services, based on the latest horizon year.

This noise impact study will be conducted by a certified professional engineer and submitted to the County concurrently with the first site plan or construction plan, whichever is first in time. Noise impacts occur if noise levels substantially exceed the existing noise levels (a 10 decibel increase over existing levels) or approach (one

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

decibel less than), meet, or exceed the Noise Abatement Criteria identified in the Revised Countywide Transportation Plan. For all impacted uses, noise attenuation measures shall be provided along the specified roadways or incorporated into proposed structures sufficient to mitigate the anticipated noise impacts prior to the issuance of occupancy permits for any impacted structures. Noise attenuation shall result in noise levels less than impact levels (2 decibels less than the Noise Abatement Criteria) and shall result in a noise reduction of at least 5 decibels. Where noise attenuation measures are needed, priority shall be given to passive measures (to include adequate setbacks, earthen berms, wooden fences, and vegetation). Structural noise attenuation measures (e.g., noise walls) shall only be used in cases where the mitigation cannot otherwise be achieved."

Response: The Applicant will commit to construction techniques that will meet or exceed the County's interior noise standard. All outdoor recreation areas – pool, tot lot, community green, are shielded from the roadways by residential buildings; there is no greater structural noise attenuation measure that can be provided.

***Regarding Archaeology***

**Comment 13:** The Rezoning Plat (Sheet 4) currently depicts Site 44LD947 as an Archeology Preserve Area; however, the Phase III Archeological Study outlined in Proffer IV (Archeological Survey) requires disturbance of the site. Therefore, staff recommends that Proffer IV be revised to require the Phase III Study only in the event the area will be disturbed, as follows:

"If a Phase III Archeological Study is recommended for site 44LD947 as a direct result of the Phase II Study, and disturbance is proposed within the Archeology Preserve Area identified on the rezoning plat, a Phase III Archeological Study will be conducted prior to approval of the associated grading permit and the commencement of any disturbance within the Archeology Preserve Area."

In addition, staff recommends that the last sentence of the proffer be removed to ensure that the Phase II Archeological Study is performed regardless of whether or not the site is disturbed.

Response: The Applicant has committed to avoiding the archaeological site. If disturbance cannot be avoided, a Phase II will be completed. If the Phase II indicates, a Phase III – full excavation – will be conducted. A Phase II analysis will not be provided unless the site is proposed for disturbance.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

***Regarding Green Building Practices***

**Comment 14:** Staff encourages a commitment in the design of the proposed structures to meet appropriate green building standards for commercial and residential uses. These standards bring about building design that conserves energy and water, maximizes indoor air quality and natural light, and minimizes construction waste and disturbance of natural landscapes. Leadership in Energy and Environmental Design (LEED), as supported by the United States Green Building Council, is a prominent standard for commercial and multi-story residential construction.

With the second submission, please include a LEED for New Construction (NC) or Core and Shell (CS) score sheet for appropriate buildings to indicate green building design commitments. If LEED – NC or CS does not apply then appropriate residential green building standards include, but are not limited to, National Green Build Standard from the National Association of Homebuilders (currently under development); LEED for Homes from the US Green Building Council, and EarthCraft House Virginia.

**Response:** Since the timeframe for development is unknown, the information needed to complete the requested LEED worksheets is not available. The Applicant has extensive experience with and commitment to Green Buildings but prefers not to commit to an existing standard that can be anticipated to evolve in the coming years.

**Comment 15:** Given the combination of uses proposed, ERT suggests consideration of re-submission of this application for PD-MUB, as described in Section 4-1350 of the Zoning Ordinance. This section supports a combination of office, residential, and retail. It also includes a 0.1-FAR incentive where at least 20 percent of the proposed floor area is certified LEED-Gold, among other incentives.

**Response:** The PD-MUB district is only allowed in areas designated in the Revised General Plan for “Business Land Use.”

**ECONOMIC DEVELOPMENT**

*(Comments dated June 16, 2008)*

**Comment 1:** The applicant is encouraged to retain this site for commercial development with the emphasis on office and flex and not remove valuable commercial land from the Route 28 Tax District. Removal of land from the Tax District is a serious concern and negatively impacts the overall district.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

Response: As noted in the response to Community Planning comment # 1, the Applicant is essentially transferring the commercial square footage approved for Parc Dulles II to portions of DTC proposed for the town center. Development of office space is unlikely to occur on this site for decades, so there is no near term property tax revenue to be lost.

**Comment 2: The proposal does not represent a mixed use project, but rather a mix of uses. The proposal does not integrate with the rest of the community and does not include safe and convenient connections, vertical integration of uses, or developmental linkages/phasing.**

Response:

- Pedestrian linkages. The proposed community is designed to be a physical extension of an existing community – Parc Dulles. Additional commitments to pedestrian connections via sidewalks and designated crossing locations have been provided to enhance pedestrian connectivity with the balance of the DTC property.
- Mixed Use. We do not understand staff's distinction between a "mix of uses," and "mixed use." Many well-appreciated mixed use environments are horizontally, not vertically, mixed. The most important element of a mixed use community is that residents have convenient access, by walking, to services.

The proposed PD-CC(CC) district is designed for pedestrian connectivity. In contrast, in many planned communities in suburban settings such as Loudoun, the services/retail are separated from the associated residential neighborhood by a large road. In some settings the rear of the retail, along with service entrances and trash collection areas, are adjacent to the neighbors who area protected by a large buffer. In short, the residential community may be adjacent, but it is still not connected from a pedestrian's perspective. The proposed setting carefully balances required buffering with integration of residential and commercial uses to ensure the integrity of the fabric of the neighborhood.

- Phasing. The project will not be phased, as infrastructure needs to be provided to the site as a whole.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

**VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT)**

*(Comments dated May 28, 2008)*

**Comment 1:** The applicant shall ensure that the commercial entrances proposed for the development conform to the applicable requirements of VDOT *Minimum Standards of Entrances to State Highways*, latest edition. The minimum and maximum width of a two-way commercial entrance should be 30' and 40' respectively.

**Response:** Acknowledged.

**Comment 2:** The median break proposed on Nokes Boulevard should not be permitted. Either reconfigure the site to provide access to Fire and Rescue at the existing cross-over or the proposed entrance be restricted to right-in and right-out. It appears that access to this facility can also be provided from other abutting public streets.

**Response:** Further discussion with VDOT is sought. We believe that with appropriate traffic signalization and complete separation of non-Fire/Rescue traffic from the Fire/Rescue portion of the site, the proposed median break would be workable.

**Comment 3:** A right and a left-turn lane should be provided for the proposed entrance on Haley Bird Drive.

**Response:** Acknowledged

**DEPARTMENT OF FIRE, RESCUE AND EMERGENCY MANAGEMENT**

*(Comments dated June 17, 2008)*

**Comment 1:** Staff is concerned that the size of the parcel would not be enough to accommodate all the program requirements, and ensure adequate circulation and deployment of emergency vehicles.

**Response:** The Special Exception plat demonstrates that all program requirements, including future expansion needs, can be met. Circulation analysis has been performed to ensure that the large vehicles anticipated can be accommodated.

**Comment 2:** Staff would not be able to agree to a condition that requires substantial conformance with the layout of page 6 of the plat as we do not have enough detail to determine if it would meet the department's needs and to our knowledge has not been engineered and designed formally. Staff respectfully



PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

requests additional information to confirm that the depicted layout considered storm water management, availability of utilities to the site, required buffer and setbacks, any right-of-way for future road construction or expansion of existing roads etc. Also, staff requests details regarding the timing of conveyance and any additional site work that would be performed prior to conveyance.

Response: We have met with Fire/Rescue staff and believe that each of these issues is resolved, but we are pleased to have additional discussions to ensure that the site is completely functional for the Fire/Rescue use proposed in the Special Exception. The site would be transferred at the County's request.

**Comment 3:** Once the parcel is conveyed to the County to be developed as a fire and rescue station it can no longer give the appearance of being part of the retail campus. For example, the parking spaces can not be shared with the retail development and signs will be installed to limit access to the station to emergency personnel and station visitors. It is also possible that fencing will be necessary to ensure the safety and security of station operation and daily activities.

Response: Acknowledged. Revisions to the site layout have been incorporated to ensure the complete separation of circulation, parking, etc.

**Comment 4:** Staff respectfully requests that the Applicant will secure approval the depicted median break access for emergency vehicles on Nokes Boulevard.

Response: Additional discussion with VDOT on this point has been requested.

**Comment 5:** Staff requests information to demonstrate that access to the proposed structures (all sides) would not be compromised in order to achieve the proposed layout of the site.

Response: Analysis of site circulation has been provided by the Applicant to Fire/Rescue staff demonstrating that access to the structure is assured.

**Comment 6:** We respectfully request that the applicant would consider a contribution to the fire/rescue volunteer company.

Response: The proffers include a contribution of \$120/unit, to accelerate with CPI.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

**PARKS, RECREATION AND COMMUNITY SERVICES**

*(Comments dated July 28, 2008)*

**Comment 1:** This project will potentially add 445 multi-family residential units and offers a per residential unit contribution to the Open Space Easement Program to be used for the purchase of open space east of Route 28 or to provide active public recreation facilities east of Route 28. However, the Sterling subarea is presently and will continue to experience significant development. Additional development from new rezoning and by-right developments will place recreational facilities in further jeopardy from a capacity perspective. Developers of other subarea residential projects indicate in their applications that the area is supported by existing and planned public facilities, such as Claude Moore Park. However, residents from both by-right and rezoned subdivisions add a significant demand on existing recreation facilities which make it difficult to keep pace with respective service demands. This application alone will have an immediate impact on existing public recreational facilities in the area.

The Applicant should further demonstrate to staff, the Planning Commission, and the Board of Supervisors how the recreational and leisure needs of these new residents will be met without further taxing the existing public recreational facilities in eastern Loudoun. PRCS recommends increasing the contribution amount, and earmark it for the purchase of additional open space adjacent to an existing PRCS facility or for the improvement of an existing PRCS facility.

**Response:** The proposed Parc Dulles II project has been designed as a continuation of the existing Parc Dulles project, and, like the existing residential neighborhood, excellent on-site amenities are provided. The proposed amenities at Parc Dulles II include a pool, tot lot, community green and indoor meeting space and recreational facilities.

**Comment 2:** PRCS is concerned with the project's proximity to the Dulles Town Center Mall, and its associated vehicular traffic. The Loudoun County Bicycle and Pedestrian Mobility Master Plan (BPMMP), Chapter 4, Bikeway and Walkway Facility Types, Intersection Treatments, recommends "a wide variety of features, including high-visibility crosswalks, wheelchair ramps, curb extensions, median refuges, countdown signals, in-median safety bollards, mid-block crossings, and more." PRCS recommends the Applicant proffer intersection treatments throughout the proposed development, specifically along City Center Boulevard and Haleybird Drive.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

Response: The Applicant has incorporated crosswalks, as requested, and subject to VDOT approval.

**Comment 3:** The Loudoun County Bicycle and Pedestrian Mobility Master Plan (BPMMP), Chapter 4(B), Land Development, Land Development Policy 6, states that *"All land development applications shall provide bicycle and pedestrian access through the development in various directions, so as to prevent it from becoming a barrier between other trip origins and destinations in the community."* In addition, BPMMP Land Development Policy 7, *"All land development applications shall provide a sufficient number of bicycle and pedestrian access points to ensure efficient connections to and from the various activity nodes within the development and linkages to existing or future adjacent developments."* The Applicant should demonstrate to Staff, the Planning Commission, and the Board of Supervisors how bicycle and pedestrian access to and through the development and connections to adjacent developments are being met, specifically considering trail linkages along City Center Boulevard and Haleybird Drive.

Response: Similarly to Parc Dulles, a 5'-wide sidewalk is provided along the City Center Boulevard frontage that completes a pedestrian connection from the proposed commercial center at the south end of Parc Dulles II, through to the existing Hadley's Park adjacent at the north end of the DTC property.

**Comment 4:** PRCS strongly supports any efforts to protect and preserve wetlands, trees, and native vegetation because these contribute directly to protecting the health of surface water, groundwater, air quality, and aesthetics – all of which contribute to the health of the community's residents. Staff recommends that the proposed "tree save / wetland" area has a Forest Management Plan that addresses the use, maintenance, target vegetation, wildlife management goals and methods, and other aspects of sustaining a functional and attractive natural area. The management plan should address how multiple layers – overstory, understory, shrub and herbaceous layers – will be maintained to ensure the health and functionality of the vegetated open space.

Response: Staff has requested a Forest Management Plan and a Resource Management Plan for the open space within Parc Dulles II. We recommend a single approach to management of open spaces and request a meeting with staff to clarify the goal and determine the desired management strategy.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

**Comment 5:** It appears that the Applicant is proposing to place portions of stream corridor and wetlands within open space. PRCS requests additional detailed information on any potential passive recreational uses within these open spaces (e.g., trails, etc.). In addition, Staff recommends that the open space have a Resource Management Plan that addresses the use, maintenance, target vegetation, wildlife management goals and methods, and other aspects of sustaining a functional and attractive natural, open space area. The management plan should also address how watershed protection is to be applied to ensure a healthy stream, diverse aquatic life, stable stream banks, and vibrant native vegetation. In addition, the management plan may also include opportunities and requirements for stream restoration.

**Response:** See response to Comment 4, above.

**Comment 6:** PRCS requests more information concerning Applicants intent for the northern portion of Land Bay OP-2 outside of the proposed stormwater management facility, at the interchange of Route 7 and Route 28, which is shown to remain undeveloped.

**Response:** Staff and the Applicant met to discuss Land Bay OP-2. Parks and Open Space proposed for this area have been revised, pursuant to staff recommendations, and are addressed in the Dulles Town Center rezoning application.

**Comment 7:** The Statement of Justification states that "sidewalks and trails will be constructed at a width and of materials as required by the FSM." The Loudoun County Bicycle and Pedestrian Mobility Master Plan (BPMMP), Chapter 4(A), Roadway Planning and Design Policy, Walkway and Sidewalk Policy 2(a) (p. 31): "*Sidewalks in the Suburban Policy Area: Residential streets should have sidewalks with a minimum width of five (5') feet.*" PRCS recommends that all internal sidewalks be a minimum of 5 feet. It is important to recognize that providing a wider width for sidewalks does not necessarily add to the safety of sidewalk bicycle travel. Utilizing or providing a sidewalk as a shared use path is unsatisfactory. Sidewalks are typically designed for pedestrian speeds and maneuverability and are not compatible with for higher speed bicycle use. Shared-use paths and/or bike lanes in the adjacent streets should be considered for bicycle travel.

**Response:** Internal sidewalks are proposed at 5'.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

**ZONING ADMINISTRATION**

*(Comments dated August 25, 2008)*

**A. Critical Issues:**

**Comment 1:** *Section 6-1310, Issues for Consideration.* The applicant shall address this section in the statement of justification or special exception plat. The applicant has not addressed this section for the two proposed special exception uses. Please revise the statement of justification and plats accordingly.

**Response:** The Statement of Justification has been revised as requested.

**Comment 2:** *Section 6-1504, Modifications.* Sheets 4, 6 and 7 note modification of Sections 4-205(C)(2) and 4-205(C)(3). The applicant needs to provide a written justification for each modification addressing how the modifications will achieve an innovative design, improve upon the existing regulation or otherwise exceed the public purpose of the existing regulation.

**Response:** Justification for proposed modifications has been provided in the resubmission.

**Comment 3:** *Sections 1-205(A)/5-900(C), Lot Access Requirements/Access from major roads.* New access points (public or private) to major collector roads are limited to locations at existing median breaks, planned median breaks or other locations approved by Loudoun County or VDOT. Three new access points are shown, only one of which appears to be located at an existing median break. Staff is concerned that the access point to City Center Boulevard and access point to Nokes Boulevard with a directional median break will not meet these sections of the Ordinance. There is no need for a median break on City Center Boulevard, as the Haverty's furniture store across the street does not have access to City Center Boulevard. The applicant needs to demonstrate that VDOT will approve all three access points shown on the CDP. Staff notes that modifications may be requested for PD Districts only; therefore, these sections may not be modified for the City Center Boulevard access point in the R-24 district.

**Response:** A full movement intersection along Nokes Boulevard exists at this location and will serve as the PD-CC(CC) district's primary entrance. This entrance location was approved and constructed as part of the Nokes Boulevard CPAP. A new directional median break has been proposed along Nokes to service emergency vehicles only and the Applicant will coordinate with VDOT to ensure their approval.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

A right in/right out entrance also exists along City Center Boulevard and was approved and constructed along with a dedicated right turn lane as part of the CPAP for City Center Boulevard. The Applicant is not requesting a median break along City Center Boulevard. A modification has been requested to allow the PD-CC(CC) district direct access to major collector streets.

**Comment 4:** *Section 3-702, Size and Location.* R-24 districts shall be located abutting arterials and major collector roads, with direct access to such roads provided only via minor collector roads. By definition, a minor collector is a publicly owned and maintained road. Sheet 4 illustrates access via a private access easement to City Center Boulevard, which does not meet this section of the Ordinance. Revise the CDP to provide a public minor collector road into the R-24 district from City Center Boulevard. Staff notes that this provision may not be modified. Finally, revise Proffer V.A. which indicates that all roads for access to and within the Property are private roads.

**Response:** The plat has been revised to remove direct access from the R-24 district to City Center Boulevard. The R-24 district's primary entrance will be from Haleybird Drive.

**Comment 5:** *Section 4-204, Special Exception Uses (B) Community Center (3), Office.* The applicant requests special exception approval for office uses exceeding 20% of the total floor area of the community center. The applicant needs to clarify on sheets 4 and 7 the total amount of office square footage being proposed for the community center. Further, sheet 7 is confusing in that the limits of special exception include a 1.9 acre site with 30,000 square feet of office (25.6%), yet office uses are also shown in the buildings outside the limits of special exception. Likewise, five buildings are labeled "office/retail" on sheet 4. Sheet 4 is not consistent with sheet 7. The building at the corner of City Center and Nokes Boulevards is labeled "office/retail" on sheet 4, but "office" on sheet 7. Please resolve this discrepancy. Finally, staff questions whether the applicant will commit to providing a 30,000 square foot office building of at least two stories in the location shown on sheet 7 through a condition of approval.

**Response:** The labeling has been revised as requested. The Applicant will commit to a 2-story office building of a minimum of 30,000 sf.

**Comment 6:** *Section 4-204, Special Exception Uses (B) Community Center (7), Fire and/or rescue station.* Staff has serious concerns about the size and layout of the proposed fire/rescue site. As noted in the June 17, 2008, referral from the

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

Department of Fire, Rescue and Emergency Management, public uses of this type typically require 5 buildable acres. Only two acres are provided. The return route through the shopping center requires fire/rescue vehicles to travel along a road with angled parking, such that motor vehicles will back up into the return route, creating the potential for conflicts between motor vehicles and fire/rescue vehicles. Given the 45 mph design speed of Nokes Boulevard, staff is also concerned that fire/rescue vehicles will not be able to safely cross Nokes Boulevard to travel east. Sheet 6 illustrates a one-way travel lane parallel to Nokes Boulevard that will allow motor vehicles from the shopping center to enter the designated exit and return routes for the fire/rescue site, which is not desirable. There are also two access points from the north that intersect with the return route. The current design creates multiple conflict points between the residential/commercial users and the fire/rescue vehicles. The level and impact of noise generated by the fire/rescue use should be addressed in the next submission as well as any mitigation measures. Overall, the proposed site is not large enough and the poorly configured internal and external vehicle circulation will pose hazards to both those using the shopping center and to fire/rescue personnel. Finally, the limits of special exception need to be revised to include the "return route" shown on sheet 6. Based on the aforementioned issues, staff does not support approval of SPEX 2008-0026 for a fire/rescue station at this time.

Response: The Applicant has met with staff to discuss the various concerns associated with developing a Fire/Rescue station adjacent to Parc Dulles. Revisions have been incorporated into the SPEX plat:

- The shopping center and the fire/rescue site are fully separated so that only fire/rescue vehicles can use the access point at Nokes.
- The Applicant has requested a meeting with VDOT to discuss the median break at Nokes and the incorporation of additional traffic control mechanisms.
- The SPEX can be revised to include the "return route." Additional discussion regarding the optimal on-street parking design is requested as staff may recommend that parallel parking, instead of angled, head-in parking, be incorporated to reduce concern about conflicts. Further, we request additional Fire/Rescue feedback on the need for a return route through the community center; rescue vehicles may be able to be routed to return to the station from the east on Nokes.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

**Comment 7:** *Section 4-206(D), Vehicular Access.* The PD-CC(CC) district shall provide convenient and coordinated vehicular access to public roadways only via collector roads. By definition, collector roads are publicly owned and maintained. Sheet 4 illustrates access to Nokes Boulevard via private access easements. Neither access point to Nokes Boulevard meets this section of the Ordinance. Vehicular access points to Nokes Boulevard need to be upgraded to public collector roads. The applicant may request a zoning modification to this section.

**Response:** Modification has been requested.

**B. Other Issues:**

**Comment 1:** *Section 6-1211(E)(1) - Whether the proposed zoning district classification is consistent with the Comprehensive Plan.* The statement of justification (p. 7) indicates that the property is governed by the Retail Plan and states that destination retail policies apply to the site. This appears to be incorrect, as the subject rezoning area is not within the comprehensive plan overlay mapped as destination retail per the Loudoun County Mapping System. While portions of Dulles Town Center have a destination retail overlay, this 34-acre site does not. As this rezoning will stand alone from the other approved and active rezonings in Dulles Town Center, staff does not agree with the applicant's assessment of this site as subject to the destination retail policies. Staff defers to Community Planning for further comment on consistency with the Revised General Plan.

**Response:** Acknowledged.

**Comment 2:** *Section 6-1211(E)(3) - Whether the range of uses in the proposed zoning district classification are compatible with the uses permitted on other property in the immediate vicinity.* Properties to the south and east of the proposed rezoning are zoned PD-IP and currently include office, warehouse and flex industrial uses. In general, residential uses are not compatible with the industrial uses permitted in the PD-IP district. Staff recommends a 50-foot side yard and additional landscaping/screening where the proposed community green & tot lot adjoin the existing PD-IP district. The last submission included a 50-foot open space area where residential uses adjoined the PD-IP district.

**Response:** The recommended 50' buffer has been added.



PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

**Comment 3:** Section 6-1211(E)(7) - *The impact that the uses that would be permitted if the property were rezoned will have upon the volume of vehicular and pedestrian traffic and traffic safety in the vicinity and whether the proposed rezoning uses sufficient measures to mitigate the impact of through construction traffic on existing neighborhoods and school areas.* Proffer V.D. states that construction traffic will be directed to access the property via City Center Boulevard or Haleybird Drive. As stated in previous zoning referrals, it would seem that construction traffic should be diverted away from Haleybird Drive because it serves the residential community to the north.

**Response:** Construction traffic may also access the Property from Nokes Boulevard providing an alternative to Haleybird Drive, as needed.

**Comment 4:** Section 6-1211(E)(8) - *Whether a reasonably viable economic use of the subject property exists under the current zoning.* The statement of justification (p. 14) states that the "majority of the Property is currently zoned PD-IP." This is not accurate, as the whole site subject to this rezoning is zoned PD-IP. Revise the statement of justification accordingly.

Staff concurs with the June 16, 2008, referral from Economic Development which encourages retention of the property for commercial development with the emphasis on office and flex uses. The current zoning not only provides for a reasonably viable economic use of the property, but is also preferable to the proposed R-24 and PD-CC(CC) districts from an economic development standpoint.

**Response:** As noted in the Statement of Justification, the currently approved commercial square footage is proposed to be developed within the proposed Dulles Town Center north of the existing mall. While the subject property is zoned for a mix of office and flex uses, the Applicant seeks to have office use develop as class A, as opposed to low-rise flex space, and the most advantageous location for higher end office uses is the proposed town center area.

**Comment 5:** Section 6-1211(E)(9) - *The effect of the proposed rezoning on the environment or natural features, wildlife habitat, vegetation, water quality and air quality.* Staff defers to the Environmental Review Team (ERT) for comment on the impact to the environment or natural features, wildlife habitat, vegetation, water quality and air quality.

**Response:** Acknowledged.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

**Comment 6:** Section 6-1211(E)(10) - *Whether the proposed rezoning encourages economic development activities in areas designated by the Comprehensive Plan and provides desirable employment and enlarges the tax base.* The planned use of the property is Keynote Employment and is an area desirable for regional office and/or research and development centers as opposed to the high density residential, retail and small scale office uses proposed. Staff defers to Community Planning and Economic Development for further comment on this issue.

**Response:** Acknowledged.

**Comment 7:** Section 6-1211(E)(11) - *Whether the proposed rezoning considers the needs of agriculture, industry, and businesses in future growth.* Staff concurs with the June 16, 2008, referral from Economic Development which notes that removal of land from the Route 28 Taxing District is a serious concern and negatively impacts the overall district. The proposed rezoning reduces the potential for future industrial and business growth.

**Response:** The Applicant's goal is to align the office uses currently approved in the proposed town center and Route 28 Office Park area. We believe this approach provides a plan that maximizes the opportunity for synergies among various activities within DTC that office users typically seek. The subject property offers a more isolated location that will be considered a lesser opportunity by most office users than the proposed town center or Route 28 Office Park area. As such, it is unlikely that "regional office" will develop at this location until all other office space is absorbed. The approved square footage better meets the County's needs if developed at the town center or along Route 28.

**Comment 8:** Section 6-1211(E)(13) - *Whether the proposed rezoning encourages the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the County.* As noted above in Comment B.6, the most appropriate use of the land is regional office and/or research and development centers.

**Response:** Regional office and R&D space users will more likely seek office space located in other portions of the DTC property. Further, the proposed residential land use provides a more appropriate transition from the existing Parc Dulles to Nokes and the commercial uses located along that corridor.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

**Comment 9:** Section 6-1211(E)(15) - *The effect of the proposed rezoning to provide moderate housing by enhancing opportunities for all qualified residents of Loudoun County.* Page 16 of the statement of justification cites 38 affordable dwelling units (ADUs) while page 5 notes 26. Twenty-six ADUs are also indicated on sheet 4 of the plat. With 445 proposed units, the minimum number of ADUs required is 28. Revise the statement of justification and sheet 4 of the plat accordingly.

**Response:** Revised as requested.

**Comment 10:** Section 6-1209(F), *Substantial Conformance Defined.* A reasonable margin of adjustment due to final design or engineering data is allowed pursuant to this section. Therefore, under the "notes" at the bottom of sheet 4, delete the first sentence which reads "all building and parking areas are illustrative in nature and are subject to final layout, design, and engineering."

**Response:** This note has been revised to read as follows: "Building and parking areas are approximate and subject to final design and engineering." We hope this language meets staff's goals.

**Comment 11:** Section 3-701, *Purpose.* R-24 districts shall be mapped in locations designated primarily for infill development or in other locations consistent with the Comprehensive Plan. See comments B.1 and B.6 above in regard to consistency with the Revised General Plan.

**Response:** Comments B1 and B6 defer to Comprehensive Planning. We understand that the subject property is planned and zoned for commercial uses. The Applicant has proposed a significant mixed use community north of the existing regional mall, which will incorporate all existing approved commercial space at Parc Dulles II so that no zoned commercial space is lost.

The subject property is part of a large planned development and indeed functions like an infill property. It is adjacent on one side by existing residential uses and bounded on two other sides by significant roadways. We believe it provides an excellent opportunity to support the continued maturation of the DTC property into a significant Urban Center as is envisioned by the County.

**Comment 12:** Section 3-702, *Size and Location.* Section 3-702(C) requires the location of R-24 districts to be consistent with the Comprehensive Plan. See comments B.1 and B.6 above in regard to consistency with the Revised General Plan.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

Response: See response to Comment 11, above.

**Comment 13: Section 3-706(D), Length/Width Ratio.** Under the lot requirements for the R-24 district (sheet 4) state the length/width ratio requirement of 6:1 maximum.

Response: Revised as requested.

**Comment 14: Section 7-1003(E), Active Recreation Space.** Four-hundred and forty-five (445) units are proposed, requiring 28 ADUs, resulting in 417 market rate units. The required square footage of active recreation space is 86,400 s.f. Revise the active recreation figures on sheet 4 accordingly. Areas of active recreation shall be accessible to all residents by means of internal pedestrian walkways. Address access to both the clubhouse/pool and community center/tot lot. The Village Green must be flat, open, well-drained usable space to fulfill the requirements of active recreation space. In regard to proffer VIII.B. (p. 5), the listed active recreation space is well below the required 86,400 s.f. Revise the proffer to ensure that the required amount is provided.

Response: Revised as requested.

**Comment 15: Section 4-201, Purpose.** Commercial centers shall be located in areas recommended by the Comprehensive Plan. See comments B.1 and B.6 above in regard to consistency with the Revised General Plan. Address the location of service areas in the shopping center. Delivery and service vehicles should be routed to minimize conflicts with other motor vehicles at the shopping center. Staff again notes concern in locations where fire/rescue vehicles will mix with shopping center traffic. Demonstrate that the center's design and landscaping/buffering serve to protect property values in the surrounding neighborhoods.

Response: Site traffic has been completely segregated from Fire and Rescue traffic to address any concerns about circulation conflicts.

**Comment 16: Section 4-202, Purpose, Size and Location of Individual Districts (B) Community Center (CC).** Community Centers shall be designed, landscaped and buffered so as to be compatible with neighboring development. Address how the proposed center achieves this standard.

Response: The required buffer is provided between commercial and residential uses.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

Further, the design of both the residential and commercial portions of Parc Dulles II carefully balance the need to provide a seamlessly integrated project that supports pedestrian connectivity but also provide protection to residential units to ensure a quiet environment. We would be happy to discuss the design considerations and any staff concerns regarding buffering.

**Comment 17:** *Section 4-203, Permitted Uses.* In the zoning tabulation on sheet 4 and on the CDP drawing (building labels), proposed uses include "retail." Staff notes that "retail" is limited to "retail sales establishment" under Section 4-203(A)(23). This conflicts with the illustrative plan (sheet 5) which includes buildings labeled pharmacy and bank rather than retail. Staff suggests that proposed uses be revised to "permitted PD-CC(CC) uses" on sheet 4. Although the illustrative plan is not proffered, it should not conflict with the CDP.

**Response:** The zoning tabulations on Sheet 4 have been revised as requested, though we request clarification on the perceived conflict.

**Comment 18:** *Section 4-205(C), Yards. (1) Adjacent to Roads. (b) Community Center (CC).* Staff notes that the parking areas located between the buildings and Nokes Boulevard shall not be visible from any road.

**Response:** Buffering along Nokes Boulevard frontage has been more clearly shown on the CDP.

**Comment 19:** *Section 4-206(B), Floor Area Ratio.* In the PD-CC(CC) zoning tabulation on sheet 4, the proposed FAR is .25 maximum. In the zoning tabulation on sheet 7, the proposed FAR is .18 maximum for the PD-CC(CC) district overall. Please resolve this discrepancy.

**Response:** Revised as requested.

**Comment 20:** *Section 4-207(D), Site Planning - Internal Relationships (1).* All utility distribution lines in the PD-CC district shall be placed underground. Revise general note 16 on sheet 1 to also reference the PD-CC-CC district.

**Response:** Revised as requested.

**Comment 21:** *Section 5-1100, Off-Street Parking and Loading Requirements.* The parking rate for shopping centers is based upon the square footage of the center. This center is proposed to be over 60,000 square feet. Therefore, the rate of 4/1000 sq. ft. of GFA applies, not 6/1,000 sq. ft. as stated in the zoning tabulation on sheet 4.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

Additionally, since this is a shopping center, the office and retail uses are both parked at the shopping center rate, rather than calculated separately. Revise the zoning tabulation on sheet 4 accordingly. With regard to the fire/rescue use, please confirm with the Department of Fire, Rescue and Emergency Management that 35 spaces is adequate parking for a 17,000 square foot facility.

Response: Parking requirements have been revised. Fire/Rescue staff confirmed that 35 spaces is adequate.

**Comment 22: Section 5-1200, Sign Regulations.** Per section 5-1202(A)(1), signs located on a property other than which it directs attention are not permitted. Remove the off-site sign shown on sheets 2, 4 and 6 if it is a new sign proposed with this development. Otherwise, show this sign on the existing conditions plan only (sheet 2).

Response: Revised as requested; no new signage is proposed.

**Comment 23: Section 5-1400, Buffering and Screening.** Staff finds the elevation drawings somewhat misleading. The plantings shown appear to be at or close to maturity, representing denser landscaping than will be achieved for several years. For example, the canopy trees shown reach a second story height and the evergreen trees exceed six feet in height. For clarity, the point at which the landscaping will reach the heights shown (i.e. 10-year maturity) should be noted on the elevation.

Per Section 5-1407, buffer yards shall be located along the perimeter of a lot or parcel. If approved, the fire/rescue site will be on its own lot and the current layout proposes pavement along the future property line, preventing the installation of a buffer. The 25' buffer shown between the travel aisle and the building (sheet 6) is not adequate as it does not measure the full 25-foot width or run the length of the property. The layout should be revised to provide the full buffer width along the perimeter of the future lot, especially given the request to reduce the required 100-foot yard to 50 feet. Per the Buffer Yard and Screening Matrix, a type 1 buffer is required adjacent to the multi-family use. Therefore, a condition of approval ensuring the 25-foot type 2 buffer is requested. Also, the yard adjacent to the multifamily use is a rear yard, not a side yard and should be relabeled. Finally, the yard adjacent to the retail center is a side yard, not a front yard and should be relabeled.

The elevation drawing for the area between the R-24 and PD-CC(CC) districts (sheets 4 and 6) is not consistent with the plan view and should be revised. Additionally, the elevation should be revised to note the correct buffer yard (i.e. front, side, or rear) as explained above.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

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Response: Elevations have been revised to indicate age of depicted vegetation, and additional requested revisions have been incorporated.

**Comment 24: Section 5-1504, Light and Glare Standards.** All sources of glare (direct or reflected artificial light) from any source, except as exempted by this section, must not cause illumination in excess of 0.25 foot candles above background light levels measured at the boundary between the PD-CC(CC) district and the R-24 district. Compliance with this standard shall be demonstrated on the site plan.

Response: Acknowledged.

**Comment 25: Section 5-1508, Steep Slope Standards.** General note 23 (sheet 1) indicates that no steep slopes exist on the property and sheet 2 contains a note stating that no natural steep slopes exist. The Loudoun County Mapping System illustrates both moderately steep slope areas and very steep slope areas. The steep slope standards do not apply to slopes created by permitted land disturbing activities, such as, but not limited to, building and parking pad sites; berms; temporary construction stock-piles; and road-side ditches. If the steep slopes present on the site are man-made, please provide documentation (i.e. grading permit #, CPAP #) of the permitted land disturbing activity that created these steep slope areas. Otherwise, revise the steep slope notes and illustrate steep slope areas on the existing conditions plan and CDP.

Response: All steep slopes are the result of construction of the adjacent roadways.

**Comment 26:** There are several access points between the R-24 and PD-CC(CC) districts. With the exception of the major travelway, the access drives between districts are not directly across from one another. Review the placement and alignment of all access points between the two districts.

Response: The design is focused on provided well connected pedestrian and vehicular access. Changes in the roadway connection provide a traffic calming element that ensures excellent vehicular access along with a high quality pedestrian environment.

**Comment 27:** In regard to proffer I.A., in addition to noting the maximum number of dwelling units, also state the maximum square footage proposed in the PD-CC(CC) district.

Response: Revised as requested.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

**Comment 28:** In the event SPEX 2008-0026 is approved, staff suggests a condition of approval (similar to proffer V.B.) for a signal specifically regulating traffic on Nokes Boulevard to allow fire/rescue vehicles safe ingress/egress.

**Response:** The Applicant supports this condition.

**Comment 29:** Page 5 of the statement of justification states that 40,000 s.f. of office uses are proposed (10,000 s.f. by special exception). However, 30,000 s.f. of office uses represent 25.6% of the floor area of the center. By-right office may not exceed 23,400 s.f. (16,600 s.f. is by special exception). Revise the table on sheet 5 accordingly and ensure that the statement of justification and plan sheets are consistent.

**Response:** Revised as requested.

**Comment 30:** Page 11 of the statement of justification indicates that conceptual elevations are included in the submission packet. Staff did not receive any additional design materials and would like to review the conceptual elevations. Additionally, staff urges the development of proffered design guidelines for this rezoning.

**Response:** The elevations referenced are those included in the Rezoning Plan. The design will extend the design of the existing Parc Dulles project. We are pleased to meet with staff to determine the best approach to ensuring that this goal is met.

**Comment 31:** The ERT referral dated June 20, 2008, suggests rezoning to the PD-MUB district. Should the applicant wish to pursue this district, please contact the Project Manager so that she may arrange a meeting with the applicant and all appropriate staff to discuss this option prior to resubmission. Rezoning to the PD-MUB will require substantial revisions to the layout and design of the project.

**Response:** Rezoning to the PD-MUB district is only supported in areas planned for Business Land Use.

**Comment 32:** Review the scale on sheet 7. It appears to be 1:40, not 1:30.

**Response:** Revised as recommended.

**Comment 33:** General note 13 (sheet 1) states that the applicant will incorporate low impact design (LID) methods at the time of site plan. Staff recommends that specific provisions for LID be included in the proffer statement.



PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

Response: The Applicant recommends design of the stormwater management system in conjunction with the proposed town center development north of the existing mall; additional discussion with staff is requested.

**Comment 34:** Delete general note 17 (sheet 1). Existing wells and/or septic systems cannot be retained for the site.

Response: Revised as requested.

**Comment 35:** General note 18 (sheet 1) references "any residential structures." However, a note of this nature typically applies to single family development. Ensure that the stated restrictions will apply to multi-family buildings. It may be appropriate to include provisions for development on hydric soils in the proffer.

Response: Acknowledged.

**Comment 36:** On sheet 1, revise the sheet index to correct the numbering.

Response: Revised as requested.

**Comment 37:** On sheets 2 and 4, delete all references to the "(PD-H30)" district. The adjoining property is zoned R-16.

Response: Revised as requested.

**Comment 38:** In the zoning tabulation for the R-24 district (sheet 4), the provided open space is 6.3 acres, with 2.0 acres in internal neighborhood parks and 1.4 acres in major natural save area. Where is the remaining 2.9 acres?

Response: Open space has been recalculated and corrected on the plat.

**Comment 39:** In the modification narrative for Section 4-205(C)(3) on sheets 4 and 6, revise the fifth line to insert the word "non" in front of the word "residential."

Response: Revised as requested.

**Comment 40:** On sheets 4, 6 and 7, under the R-24 and PD-CC(CC) zoning tabulations, the word "collector" is misspelled.

Response: Revised to correct misspelling.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Referral Comments

February 20, 2009

---

**Comment 41:** On sheet 4, the word "office" is misspelled on the plan drawing.

**Response:** Revised to correct misspelling.

W. Tayloe Murphy, Jr.  
Secretary of Natural  
Resources



Joseph H. Maroon  
Director

**COMMONWEALTH of VIRGINIA**  
**DEPARTMENT OF CONSERVATION AND RECREATION**

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Donna Torraca  
Reed Smith LLP  
44084 Riverside Parkway, Suite 300  
Leesburg, VA 20176

July 9, 2002

Re: Dulles Town Center

Dear Ms. Torraca:

The Department of Conservation and Recreation's Division of Natural Heritage (DCR) has searched its Biological and Conservation Data System (BCD) for occurrences of natural heritage resources from the area outlined on the submitted map. Natural heritage resources are defined as the habitat of rare, threatened, or endangered plant and animal species, unique or exemplary natural communities, and significant geologic formations.

According to the information currently in our files, natural heritage resources have not been documented at this location. However, several rare plants, which are typically associated with prairie vegetation and inhabit semi-open diabase glades in Virginia may occur at this location if suitable habitat is present. Diabase glades are characterized by historically fire-dominated grassland vegetation on relatively nutrient-rich soils underlain by Triassic bedrock. Diabase flatrock, a hard, dark-colored volcanic rock, is found primarily in northern Virginia counties and is located within the geologic formation known as the Triassic Basin. Where the bedrock is exposed, a distinctive community type of drought-tolerant plants occurs. Diabase flatrocks are extremely rare natural communities that are threatened by activities such as quarrying and road construction (Rawinski, 1995).

In Northern Virginia, diabase supports occurrences of several global and state rare plant species: earleaf foxglove (*Agalinis auriculata*, G2/S1/SOC/NS), white heath aster (*Aster ericoides*, G5/S2/NF/NS), blue-hearts (*Buchnera americana*, G3G4/S1/NF/NS), hairy beardtongue (*Penstemon hirsutus*, G4/S2/NF/NS), downy phlox (*Phlox pilosa*, G5T5/S2/NF/NS), stiff goldenrod (*Oligoneuron rigidum* var. *rigidum*, G5/S2/NF/NS), and marsh hedgenettle (*Stachys pilosa* var. *arenicola*, G5/S1/NF/NS). Please note, earleaf foxglove is currently tracked as a species of concern by the United States Fish and Wildlife Service (USFWS); however this designation has no official legal status.

*An Agency of the Natural Resources Secretariat*

A-178

Due to the potential for this site to support additional populations of these natural heritage resources, DCR recommends an inventory of suitable habitat in the study area. With the survey results we can more accurately evaluate potential impacts to natural heritage resources and offer specific protection recommendations for minimizing impacts to the documented resources. DCR-Division of Natural Heritage biologists are qualified and available to conduct inventories for rare, threatened, and endangered species. Please contact J. Christopher Ludwig, Natural Heritage Inventory Manager, at (804) 371-6206 to discuss arrangements for field work.

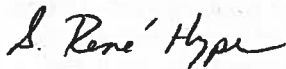
Under a Memorandum of Agreement established between the Virginia Department of Agriculture and Consumer Services (VDACS) and the Virginia Department of Conservation and Recreation (DCR), DCR represents VDACS in comments regarding potential impacts on state-listed threatened and endangered plant and insect species. The current activity will not affect any documented state-listed plants or insects.

New and updated information is continually added to BCD. Please contact DCR for an update on this natural heritage information if a significant amount of time passes before it is utilized.

A fee of \$ 65.00 has been assessed for the service of providing this information. Please find enclosed an invoice for that amount. Please return one copy of the invoice along with your remittance made payable to the Treasurer of Virginia, Department of Conservation and Recreation, 203 Governor Street, Suite 414, Richmond, VA 23219, ATTN: Cashier. Payment is due within thirty days of the invoice date.

Should you have any questions or concerns, feel free to contact me at 804-371-2708. Thank you for the opportunity to comment on this project.

Sincerely,



S. Rene' Hypes  
Project Review Coordinator

CC: USFWS, Kim Marbain

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

July 27, 2009

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**OFFICE OF ZONING**

*(Comments dated April 13, 2009)*

**A. CRITICAL ISSUES**

1. **Section 6-1504, Modifications.** The applicant needs to provide a written justification for each proposed modification addressing how such modification will achieve an innovative design, improve upon the existing regulation or otherwise exceed the public purpose of the existing regulation. (Prior comment A.2.) Absent the required justification, staff cannot support the proposed modifications. Additional comment on each modification is provided in Section C. below.

**RESPONSE:** The application has been revised to address the requested and the justification for each is included in the Statement of Justification (p. 19)

2. **Section 3-702, Size and Location.** The private road layout will not comply with Section 3-702(A) once subdivision occurs. Direct access for lots created after the adoption of the Ordinance to major collectors shall be provided only via minor collector roads. Given the proposal to dedicate two acres for the fire/rescue parcel, lots will be created. To meet this section, staff previously requested a public minor collector road into the R-24 district from City Center Boulevard. The applicant, instead, revised the location of the zone line between the R-24 and PD-CQ(CC) districts. This does not fulfill the intent of this section. Moreover, a use may not be accessed via a private road through an adjoining district in which that use is not allowed. Since multifamily dwelling units are not permitted in the PD-CQ(CC) district, the applicant cannot serve the multifamily residential with a private road through the PD-CQ(CC) district. Likewise, as many of the commercial uses permitted in the PD-CQ(CC) district are not allowed in the R-24 district, the applicant cannot serve those commercial uses with a private road from the R-24 district. A public road is needed to access uses between the two districts and proffer V.A. should be revised to reflect this change. (Prior comment A.4.)

**RESPONSE:** The proposed project must be served by private roads for two reasons: 1) The pedestrian friendly design desired by the Applicant cannot be accomplished if the internal streets must be designed to VDOT subdivision street standards. 2) Internal streets for a high-density residential community, as is proposed, should be maintained by the Owner or Owners' Association, not the public sector.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

The application has been revised to eliminate access from City Center Boulevard. Haleybird is not a major collector so access via private road is acceptable at this location. A modification of this provision is proposed for the access from Nokes Boulevard.

The second part of Staff's concern about private roads reflects a commitment to a standard of practice that a private road cannot provide access between districts that support different uses such as R-24 and PD-CO(CO). This interpretation conflicts with County policies supporting mixed use development and walkable communities.

Create distinct, well-designed and serviced residential and mixed-use communities ... with the essential supporting hierarchy of roads and transit networks to comprise the overall planned structure of Loudoun's territory, consistent with Loudoun's overall objectives (Smart Growth and Revitalization Principle # 3, Revised General Plan, p. xi)

High-density Residential neighborhoods are established to provide for a variety of attached and multi-family housing types in neighborhood settings with supporting non-residential uses in a planned environment fostering a strong sense of community (Design Guidelines – High-Density Residential Uses, Revised General Plan, p. 11-9)

In the past, separation of uses was an overarching theme of land use planning, particularly where businesses and residential uses created nuisances for each other. The recognition that the quality of the built environment is vastly enhanced by walkability requires that complementary uses such as high density residential and community-oriented non residential uses be situated within walking distance and in a high quality pedestrian environment. We urge interpretation that recognizes this planning imperative and permits the fine-grained mix of uses sought by both the County and the Applicant.

While staff suggests that the two districts could be connected by a public road, again, we emphasize that it would be difficult to provide a high quality pedestrian environment with a public road.

3. **Section 4-204, Special Exception Uses (B) Community Center (7), Fire and/or rescue station.** Staff reiterates the prior comments concerning the size and layout of the proposed fire/rescue site. Public uses of this type typically require 5 buildable acres as opposed to the two acres proposed by the applicant. The return route through the shopping center requires fire/rescue vehicles to travel along a road with angled parking, such that motor vehicles will back up into the return route, creating the potential for conflicts between motor vehicles and fire/rescue vehicles. Staff urges continued coordination with VDOT to ensure that the directional median break on Nokes Boulevard can be established as shown on the Rezoning Plat (sheet 4) and SPEX plat (sheet 6). The two access points from the north that intersect with the return route remain a concern. The

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

design still creates multiple conflict points between the residential/commercial users and the fire/rescue vehicles. The applicant has not specifically addressed the level and impact of noise that will be generated or any mitigation measures. Staff maintains that the proposed site is not large enough and continues to pose internal and external vehicle circulation hazards. Staff does not support approval of SPEX 2008-0026 at this time. (Prior comment A.6.)

**RESPONSE:** The proposed Fire/Rescue site has been expanded to 3.3 acres. We note that stormwater management is provided by the Owner and so does not have to be accommodated onsite, further enhancing the usability of the site. In addition, the Applicant and the Department of Fire, Rescue and Emergency Management have discussed the option of requiring all emergency vehicles to return to the station from the east. The approach appears to be workable and we encourage staff to consider it as a condition of approval.

With regard to noise impacts, we note that a buffer reduction had first been proposed to enhance the integration of uses between the R-24 and PD-CQ(CC) districts. In redesigning the site, the proposed buffer reduction has been removed in response to the stated concern about noise. The Department of Fire, Rescue and Emergency Management has extensive experience managing noise impacts while meeting all state requirements regarding operation of emergency vehicles. We note that there are numerous Fire/Rescue stations in the County located in close proximity to residential neighborhoods. Certainly, in more urban settings, as is proposed here, emergency facilities must be woven into the fabric of neighborhoods.

4. **Section 6-1211(E), Zoning Map Amendments.** This section lists the matters to which the Planning Commission shall give reasonable consideration. Overall, staff finds that the proposed rezoning runs counter to a number of these matters, discussed in more detail in comments B.1. through B.6. below.

**RESPONSE:** See individual responses to B.1 – B.6 below.

5. **Section 3-701, Purpose.** R-24 districts shall be mapped in locations designated primarily for infill development or in other locations consistent with the Comprehensive Plan. The rezoning to R-24 is not consistent with the Comprehensive Plan. (Prior Comment B.12.)

**RESPONSE:** We continue to assert that this property, as a small part of a large master planned community, should complement and support a coherent development pattern in DTC. While light industrial development may be consistent with areas east of DTC along Nokes Boulevard and Ridgetop Circle, the property faces DTC and an existing residential community and, we believe, should blend with and complement those uses.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

July 27, 2009

---

6. **Section 3-702, Size and Location.** R-24 districts shall be mapped only in locations consistent with the Comprehensive Plan. The rezoning to R-24 is not consistent with the Comprehensive Plan. (Prior Comment B.13.)

**RESPONSE:** See response to Community Planning comment # 1 for discussion of land use.

7. **Section 4-201, Purpose.** Commercial centers shall be located consistent with the Comprehensive Plan. The rezoning to PD-CC(CC) is not consistent with the Comprehensive Plan. (Prior Comment B.15.)

**RESPONSE:** See response to Community Planning comment # 1 for discussion of land use.

**B. OTHER ISSUES**

1. **Section 6-1211(E)(1)** - *Whether the proposed zoning district classification is consistent with the Comprehensive Plan.* Staff reiterates prior referral comments on this matter. The proposed zoning districts are not consistent with the Comprehensive Plan. (Prior comment B.1.)

**RESPONSE:** See response to Community Planning comment # 1 for discussion of land use.

2. **Section 6-1211(E)(7)** - *The impact that the uses that would be permitted if the property were rezoned will have upon the volume of vehicular and pedestrian traffic and traffic safety in the vicinity and whether the proposed rezoning uses sufficient measures to mitigate the impact of through construction traffic on existing neighborhoods and school areas.* The rezoning shall use sufficient measures to mitigate the impact of through construction traffic on existing neighborhoods. The response (p. 22) indicates that construction traffic may access the Property from Nokes Boulevard as an alternative to Haleybird Drive, yet Proffer V.E. states that construction traffic will be directed to access the Property via City Center Boulevard or Haleybird Drive. There does not seem to be a clear plan for directing construction traffic. Revise Proffer V.E. to clarify the restrictions on construction traffic. (Prior comment B.3.)

**RESPONSE:** Proffer V.E. has been revised to indicate that construction access will be from Haleybird or Nokes. The proffer further elaborates a commitment to ensure that construction of the site will not interfere with any emergency management vehicles if the Fire/Rescue site is constructed first.



PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

3. **Section 6-1211(E)(8)** - *Whether a reasonably viable economic use of the subject property exists under the current zoning.* The statement of justification (p. 15) continues to state that "the majority of the Property is currently zoned PD-IP." This is not accurate, as the whole site subject to this rezoning is zoned PD-IP. Revise the statement of justification accordingly.

Staff also reiterates that the current zoning not only provides for a reasonably viable economic use of the property, but is also preferable to the proposed R-24 and PD-CC(CC) districts from an economic development standpoint. (Prior comment B.4.)

**RESPONSE:** The Statement of Justification has been corrected to remove the word "majority" so that the statement reads that "the property is currently zoning PD-IP."

While we appreciate staff's effort to protect the County's tax base, we respectfully note that in evaluating the proposed Parc Dulles II application, staff has not recognized the challenges of development "Keynote" office in Loudoun County in this location. The Applicant does not agree that the subject property – competing with sites along Route 7 and Route 28 – is a viable location for a Class A office building. Flex office uses may be viable in the medium term (10-15 years), but neither the County nor the Applicant envisions light industrial scale uses here.

Further, staff in this analysis is not recognizing the Applicant's efforts to shift Class A office uses to the Route 28 frontage and to the proposed "Urban Center," north of the mall. This refinement is proposed specifically to enhance the regional competitiveness of the DTC property.

4. **Section 6-1211(E)(10)** - *Whether the proposed rezoning encourages economic development activities in areas designated by the Comprehensive Plan and provides desirable employment and enlarges the tax base.* Staff reiterates that the planned use of the property is Keynote Employment and is an area desirable for regional office and/or research and development centers as opposed to the high density residential, retail and small scale office uses proposed. (Prior comment B.6.)

**RESPONSE:** See response to comment # 3. above.

5. **Section 6-1211(E)(11)** - *Whether the proposed rezoning considers the needs of agriculture, industry, and businesses in future growth.* Staff reiterates that rezoning property located in the Route 28 Taxing District to the R-24 zone reduces the potential for future industrial and business growth in the Tax District. (Prior comment B.7.)

**RESPONSE:** See response to comment # 3. above. Again, the application should be reviewed as part of the Applicant's effort to refine a master plan for the 554-acre Dulles Town Center property and in conjunction with ZMAP 2007-0001, Dulles Town Center. By

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

focusing Class A office development in the most desirable portions of the DTC property, particularly along Route 28, these applications enhance the economic development value of the DTC property.

6. **Section 6-1211(E)(13)** - *Whether the proposed rezoning encourages the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the County.* Staff reiterates that the most appropriate use of the land is regional office and/or research and development centers. (Prior comment B.8.)

**RESPONSE:** See response to Community Planning comment # 1 for discussion of land use.

7. **Section 6-1211(E)(15)** - *The effect of the proposed rezoning to provide moderate housing by enhancing opportunities for all qualified residents of Loudoun County.* Page 17 of the statement of justification cites 38 affordable dwelling units (ADUs) while page 5 notes 27 ADUs and 418 market rate units. With 445 proposed units, the minimum number of ADUs required is 28. Revise the statement of justification accordingly. (Prior comment B.9.)

**RESPONSE:** The application has been revised to request market rate and ADUs at the rate recommended by staff: 417 market and 28 ADUs.

8. **Section 6-1211(E)(9)** - *The effect of the proposed rezoning on the environment or natural features, wildlife habitat, vegetation, water quality and air quality.* The Virginia Department of Conservation and Recreation (DCR) recommend an inventory of suitable habitat due to the potential for this site to support additional populations of natural heritage resources. The statement of justification (p. 15) states that further discussions should be held with DCR to reassess their recommendation. Staff concurs with the DCR and recommends the inventories for rare, threatened, and endangered species be conducted.

**RESPONSE:** The Applicant contacted DCR for further analysis regarding habitat. Based on more recent research, DCR no longer identifies species of concern on or near the site. A copy of correspondence from DCR so stating is attached to the Statement of Justification as Exhibit C.

9. **Section 6-1211(E)(16)** - *The effect of the rezoning on natural, scenic, archaeological, or historic features of significant importance.* The statement of justification (p. 17) indicates that completion of a Phase I survey is recommended. It appears that a Phase I survey was conducted, based on the language in proffer IV. Add the Phase I survey as an exhibit to the statement of justification and update the statement of justification to reflect the results of the Phase I survey and its findings.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

**RESPONSE:** The proffers have been clarified to address the recommendations of the County's Preservation Planner that the site remain undisturbed and protected (Proffer IV). If disturbance were to be considered, a Phase II investigation is required, along with any subsequent analysis that may be indicated. The Archaeological Site is included in the Tree Conservation Area.

10. **Section 6-1310(C)** - *Whether the level and impact of any noise emanating from the site, including that generated by the proposed use, negatively impacts the uses in the immediate area.* With regard to the fire/rescue site, please elaborate on the measures that will be incorporated to mitigate the negative impacts on the immediate residential uses.

**RESPONSE:** The Department of Fire, Rescue & Emergency Management has extensive experience with managing noise impacts of their operations. Subsequent to further discussion, conditions of a Special Exception could memorialize good practices for this site.

11. **Section 6-1310(E)** - *Whether the proposed use is compatible with other existing or proposed uses in the neighborhood, and adjacent parcels.* As noted in comment A.3. above, the current layout of the fire/rescue site creates multiple conflict points between the residential/commercial users and the fire/rescue vehicles. The shared access and close proximity of uses makes the neighborhood less suitable for a fire/rescue station.

**RESPONSE:** The Fire/Rescue site and access thereto have been revised to minimize interparcel connectivity.

12. **Section 6-1310(F)** - *Whether sufficient existing or proposed landscaping, screening and buffering on the site and in the neighborhood to adequately screen surrounding uses.* Staff recommends conditions of approval addressing the buffer treatments between the fire/rescue parcel and the adjoining R-24 and PD-IP districts.

**RESPONSE:** We are pleased to work with staff to discuss other approaches that may be recommended. We note that the Fire/Rescue Site is separated from residential buildings by the Tree Conservation Area/Archaeological Site, a parking area and the combined buffers and yards of the R-24/PD-CC(CC). While the width of the PD-CC(CC) buffer is proposed to be narrowed, it is enhanced with landscaping.

13. **Section 6-1310(H)** - *Whether the proposed special exception will damage existing animal habitat, vegetation, water quality (including groundwater) or air quality.* In regard to the proposed office special exception, the statement of justification (p. 24) references dedication to the County, which is not accurate. Revise the statement of justification accordingly.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

**RESPONSE:** Revised as requested to clarify that the area proposed for office use is not proposed for dedication to the County, rather the Fire/Rescue site is proposed for dedication.

14. **Section 6-1310(J)** - *Whether the traffic expected to be generated by the proposed use will be adequately and safely served by roads, pedestrian connections and other transportation services.* Staff is concerned that one of the return routes for the fire/rescue site is a private road. Staff also has concerns regarding the ability of fire/rescue vehicles to maneuver the site as currently configured.

**RESPONSE:** The Fire/Rescue site and access thereto have been revised to address this concern. As noted above, we believe that restricting return of emergency vehicles to the site to ensure that returns are always from the east, is a viable approach to addressing staff's concern.

15. **Section 6-1310(O)** - *Whether the proposed use will negatively impact orderly and safe road development and transportation.* The applicant proposes a directional median break on Nokes Boulevard for emergency vehicles only. Staff is concerned that such an improvement will negatively impact the safety of Nokes Boulevard.

**RESPONSE:** VDOT is the approving entity for a median break. Preliminary discussions with VDOT indicates a willingness to engage alternative methods of traffic control so as to ensure public safety on Nokes and also support expansion of the County's public safety infrastructure.

16. **Section 4-201, Purpose.** Address the location of service areas in the shopping center. Staff reiterates that the return route for fire and rescue vehicles is the primary access road serving the shopping center. Shopping center traffic has not been completely segregated from fire and rescue traffic as indicated in the response (p. 25). (Prior comment B.15.)

**RESPONSE:** While a physical barrier was established between the Fire/Rescue site and the commercial center, the rezoning plat continues to show an interparcel connection. The Statement of Justification notes this as an option for return traffic. The Applicant defers to the County regarding retention of such interparcel connectivity.

17. **Section 4-204(B)(3), Office.** The response (p. 5) states that a 2-story office building of 30,000 square feet will be located at the intersection of Nokes and City Center Boulevards. Since this building represents over 20% of the floor area of the center, the remaining office square footage could only be located in the other two buildings shown on the SPEX plat. In other words, the current limits of special exception remove the ability to develop "by-right" office in other buildings in the center. Staff questions whether this was the applicant's intent.

**RESPONSE:** We understand this limitation.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

July 27, 2009

---

18. **Section 4-205(C), Yards. (1) Adjacent to Roads. (b) Community Center (CC).** Staff previously noted that parking areas located between the buildings and Nokes Boulevard could not be visible from any road. The response (p. 26) states that buffering along Nokes Boulevard has been more clearly shown on the CDP. This is confusing, as the Rezoning Plat says "no buffer yard required." (Prior comment B.18.) Nonetheless, this provision can be addressed at the time of site plan.

**RESPONSE:** The Rezoning Plat has been revised, and this requirement will be met at site plan.

19. **Section 5-1508, Steep Slope Standards.** Sheets 1 and 2 continue to conflict regarding steep slopes. Revise general note 22 (sheet 1) to state that steep slopes areas are depicted on sheet 2. On sheet 2, distinguish between moderately steep slope areas and very steep slope areas. As the slopes depicted on sheet 2 vary from that shown in the Loudoun County Mapping System, staff is unsure what degree of steep slopes are being represented. While the slopes may be exempt from the steep slope standards, they should be depicted as either moderately steep (15% to 25%) or very steep (greater than 25%) in accordance with Article 8. (Prior comment B.25.)

**RESPONSE:** Note 22 is revised as requested. Steepslopes are shown on Sheet 2.

20. **Section 7-1003(E), Active Recreation Space.** On the Rezoning Plat (sheet 4), the areas labeled "Approximate Active Rec Space" add up to less than 86,400 square feet. Ensure that at least the minimum amount of active recreation space is demonstrated on sheet 4. On sheet 4, under the active recreation open space narrative for the R-24 district, revise the section reference from "7-903(E)" to "7-1003(E)."

**RESPONSE:** Revised as requested.

21. Page 5 of the statement of justification still indicates that 40,000 s.f. of office uses are proposed (10,000 s.f. by special exception). However, 30,000 s.f. of office uses represent 25.6% of the floor area of the center. By-right office may not exceed 23,400 s.f. (16,600 s.f. is by special exception). The table on page 5 of the statement of justification has not been revised as indicated in the response (p. 29). (Prior comment B.29.)

**RESPONSE:** Revised as requested to clarify that the Special Exception request is for up to 16,600 additional sf of office use..

22. In the proposed land use mix (table 2) on page 10 of the statement of justification, staff does not understand why the area (AC) column adds up to 36.05 acres. The area of the rezoning is 34.1 acres. Revise the figures accordingly.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

**RESPONSE:** Table 2: "Land Use Mix" has been updated to reflect the revised land use.

23. The limits of the proposed rezoning extend to the centerlines of Nokes Boulevard and City Center Boulevard. As these are dedicated rights-of-way, these areas should not be included in the limits of the rezoning. Please revise all plan sheets accordingly.

**RESPONSE:** Revisions to location of zone line will be included in subsequent submission.

24. Proffer V.B. provides for the extension of Haleybird Drive prior to residential occupancy. However, sheets 4 and 5 depict a cul-de-sac as opposed to a through road. Please revise sheets 4 and 5 accordingly.

**RESPONSE:** Revised as requested.

25. Please fix the grammatical error in general note 1 on sheet 1.

**RESPONSE:** Revised as requested.

26. General note 13 (sheet 1) states that the applicant will incorporate low impact design (LID) methods at the time of site plan. Staff recommends that specific provisions for LID be included in the proffer statement. (Prior comment B.33.)

**RESPONSE:** Proffer III has been revised to address LID.

27. In general note 14 (sheet 1), please insert the word "Revised" before "1993 Zoning Ordinance."

**RESPONSE:** Revised as requested.

28. In the legend on sheets 4 and 7, please change "Tree Save Area" to "Tree Conservation Area" so that the legend and drawing are consistent.

**RESPONSE:** Revised as requested.

29. On sheet 4, review the limits of the Village Green. This active recreation space should not extend to the centerline of the proposed roadway.

**RESPONSE:** Revised as requested.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

30. On sheet 4, the building footprints exceed the maximum square footage of 117,000 square feet. Please ensure that accurate building footprints are depicted.

RESPONSE: Building footprints are revised to show layout changes in relation to the Public Use Site, City Center Boulevard and Tree Conservation Areas. A note is included indicating that building areas and parking areas are approximate.

31. Sheet 4 illustrates a "proposed crosswalk" at the intersection of Ring Road and an unnamed street. Please account for this crosswalk in the proffer statement. Further, the Loudoun County Mapping System denotes both of these roadways as Dulles Town Circle. Revise the street names accordingly.

RESPONSE: The proffers have been revised to indicate that the pedestrian facilities proposed will be provided consistent with the Rezoning Plat and that such pedestrian facilities include crosswalks.

32. The limits of special exception depicted on sheet 4 are confusing. For both the office and the fire/rescue uses, the arrows point to both blue and red lines. Revise sheet 4 to clearly depict the limits of special exception.

RESPONSE: Revised as requested.

33. On sheet 4, label the directional median break as for "emergency vehicles only," consistent with sheet 6.

RESPONSE: Revised as requested.

34. Staff notes that the clubhouse and pool facility is required to have off-street parking in accordance with Section 5-1100.

RESPONSE: We acknowledge this requirement; parking requirements will be met at site plan.

35. On sheet 6, an exit route goes into the shopping center from the fire/rescue parcel. The application makes several statements that only the return route will use the shopping center roadway. Please resolve this discrepancy.

RESPONSE: Access routes have been revised to be clear and to minimize potential conflicts with emergency vehicles.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

July 27, 2009

---

36. On sheet 7, the zoning across City Center Boulevard is noted as both PD-CH and PD-IP. Remove the PD-IP designation, as this is incorrect.

**RESPONSE:** Revised as requested.

37. On sheet 7, the "25' type II rear yard buffer" text is cut off, making it seem like only a 5' buffer is provided. Please revise the text to show the 25-foot buffer.

**RESPONSE:** Revised as requested.

38. In the PD-CQ(CC) district standards on sheets 6 and 7, modifications are not listed on these sheets. Please change "see below" to "see sheet 4."

**RESPONSE:** Revised as requested.

**C. MODIFICATIONS**

Proposed modifications to the PD-CQ(CC) district include:

1. Section 4-205(C)(2). Modify the yard requirements between the commercial center and the adjacent R-24 district. Reduce the yard for buildings, parking, areas for collection of refuse and loading areas from 100 feet to 50 feet, provided that no outdoor storage, areas for collection of refuse or loading areas shall be visible from residential areas and parking shall be screened to the extent feasible. Provide a 25-foot minimum type II rear yard buffer.

Staff Comment: Staff does not support this modification. The reduced yard does not exceed the public purpose, improve upon the existing regulation or offer an innovative design. In particular, staff does not support the yard reduction to 50 feet adjacent to the fire/rescue site. The full 100-foot yard should be provided in this area. Finally, the phrase, "to the extent feasible" should be removed from the proposed language. This wording is too subjective and does not offer clear requirements for the screening of parking.

**RESPONSE:**

- The area adjacent to the Public Use Site is predominately Tree Conservation Area in the revised plan far exceeding the width of a required buffer. Additionally, a parking area separates the Public Use Site from any residential building, again, far exceeding the width of a required buffer. The only substantive difference between the required and



PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

proposed separation between the Fire/Rescue Station and residential building is that the proposed condition offers a more significant landscaping program.

- Parking in the PD-CC(CC) district must be provided behind buildings facing the entry drive. While we are offering a more significant landscape screen than the Zoning Ordinance requires including evergreen, it is possible that residents could see through 75' of landscaping and see the parking area. We do not believe, however, that installation of a fence or more opaque screen is appropriate and desire the natural screen provided by landscaping. The proposed language reflects the notion that the parking may be slightly visible.

2. Section 4-205(C)(3). Modify the yard requirements between the commercial center and the adjacent non-residential district (east property line). Reduce the yard for buildings, parking, and loading areas from 35 feet to 20 feet. Provide a 20-foot type II side yard buffer with 6-foot wood fence.

Staff Comment: Staff does not support this modification. The modified yard requirements are sought to accommodate the fire/rescue site and would not be necessary if the lot size were increased to five acres, as requested by Staff. The modified yard does not meet the standards for approval in Section 6-1504. Finally, in the description of this modification on sheet 4, remove the wording regarding refuse, as areas for collection of refuse are not regulated by this section.

**RESPONSE:** The word "refuse" was inadvertently retained on the Rezoning Plat and will be removed at the next submission. The proposed setback reduction accommodates a driveway location. Building and parking will still be located further away from the property line than proposed yard. The 6' wooden fence is a net improvement to screening for the adjacent site.

3. Section 4-206(D). Community centers shall provide convenient and coordinated vehicular access to public roadways only via collector roads. This modification proposes access to public roadways (Nokes Boulevard and City Center Boulevard) via private access easements.

Staff Comment: Staff does not support this modification. Private roads to the Community Center, to include the public use site, do not improve upon the existing regulation requiring a public collector road. Further, as discussed in comment A.2. above, since multifamily residential uses are not permitted in the PD-CC(CC) district, the applicant cannot serve the multifamily residential with private roads from the PD-CC(CC) district.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

**RESPONSE:**

- The benefit of a private road v. a public road, from the design perspective, are significant – narrower pavement widths, more points of access, slower speeds, private maintenance.
- The practice of preventing a private street from connecting different uses is useful when protecting residential (or lower intensity uses) from light industrial/commercial (higher intensity uses). Mixed use development, as proposed, specifically seeks to provide improved access between uses instead of separation. We respectfully request staff to reconsider in light of this planning goal and in light of the elimination of access from City Center Boulevard, which reduces potential for conflicts.

**A. PROFFER REVIEW**

The following comments are provided for the draft proffer statement with a revision date of February 20, 2009:

1. In regard to proffer I.A.2., staff suggests revising the phrase "Tree Save Area" to "Tree Conservation Area," consistent with proffer VIII.C.

**RESPONSE:** Revised as requested.

2. In regard to proffer I.B., staff suggests deleting the phrase "Section 3-702 of." Section 3-702 covers only the size and location requirements of the R-24 district.

**RESPONSE:** Revised to refer more broadly to Section 3-700.

3. In regard to proffer III., staff recommends the project be designed to meet current stormwater management and water quality standards since the approved regional facility at the intersection of Routes 7 and 28 was designed under prior standards.

**RESPONSE:** Revised as requested to reference FSM Standards at time of Site Plan.

4. In further regard to proffer III., staff suggests the applicant memorialize the verbal commitment previously agreed to on March 23, 2009, to preserve the entire riparian corridor associated with this ZMAP and ZMAP 2007-0001. Currently, a possible SWM/BMP is shown in the riparian corridor. Staff suggests the entire riparian corridor be denoted as tree conservation area.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

**RESPONSE:** Revised as requested. The revised Rezoning Plat eliminates the entrance from City Center Boulevard and modifies the layout to allow for BMP facilities to be provided offline.

5. In regard to proffer IV., staff suggests the proffer include specific measures for protection of the archeological site during construction, given its close proximity to development.

**RESPONSE:** Revised as requested; fencing of the archaeological site is specified in the proffers.

6. In further regard to proffer IV., staff questions the ultimate condition of the archeological site. For example, will it be secured by a fence or other means to prevent entry, or will it be open to the community? Staff suggests the proffer address the perpetual maintenance and protection of the site, as the statement of justification (p. 17) indicates that all open space will be privately maintained by an owners association. Finally, staff suggests the applicant consult with the Department of Planning on appropriate measures for protection of the site.

**RESPONSE:** The Applicant has revised the proffers to incorporate the recommendations of the County's Preservation Planner to preserve the site by keeping it in open space and protecting it during construction. It is in TCA and it is our understanding that no other specialized maintenance is required, as an element of private open space, it will be the responsibility of POA to maintain consistent with proffers and TCA.

7. In further regard to proffer IV., staff is unsure whether the second paragraph relieves the applicant of the prior commitment in paragraph 1 to perform a phase 2 survey. In paragraph 2, line 1, staff suggests the phrase "any additional archeological studies" be changed to "the Phase III archeological study."

**RESPONSE:** The proffer has been revised to clarify that if left undisturbed, no study shall be required. If disturbed, a Phase II analysis is required; if the Phase II indicates further research, such additional research shall be undertaken. Please note, this commitment is provided as requested, however, site is in TCA and Applicant's intent is not to disturb it.

8. Following the extension of Haleybird Drive called for in proffer V.B., does the applicant intend to dedicate this road to the County for acceptance by VDOT?

**RESPONSE:** The right-of-way has already been dedicated. We intend to work with VDOT to have the road accepted into the public road system.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

July 27, 2009

---

9. In further regard to proffer V.B., staff suggests the applicant construct the full four-lane continuation of Haleybird Drive, as opposed to a 2-lane half section.

**RESPONSE:** The proposed development does not generate a need for a 4-lane road. The Applicant is aware of the risks and challenges associated with seeking VDOT acceptance of roadways.

10. In further regard to proffer V.B., staff suggests the Haleybird Drive extension also include continuation of the 5-foot sidewalk/trail shown on sheet 4.

**RESPONSE:** Revised as requested. 5' sidewalk is shown.

11. In regard to proffer V.C., the Rezoning Plat (sheet 4) illustrates a "future signalized intersection as warranted" at Haleybird Drive and City Center Boulevard, but not at the location noted in proffer V.C. Please add the future signal at Haleybird Drive and City Center Boulevard to the proffer, if not previously proffered. Also, depict the Nokes Boulevard/Site Entrance signal on sheet 4.

**RESPONSE:** The proposed contribution for signalization is targeted to the entrance at Nokes Boulevard; notwithstanding, the proffers stated that if a signal is not warranted at Nokes the contribution may be used anywhere on the 554-acre DTC property.

12. In regard to proffer VIII.B., staff suggests minimum square footages be established for the Village Green and Community Green.

**RESPONSE:** 86,400 sf is specified on the plat for 3 spaces – village green, community green/tot lot and pool area – to meet active recreation area requirements. These areas are also located on the plat with which a site plan must be in substantial conformity. It seems that this is a very specific commitment which will guarantee a certain amount of active recreation space in 3 locations, but also allow for some flexibility of final layout in design.

The Village Green as depicted is 21,000 sf while the Community Green is 34,000 sf and the pool area is 31,400 sf. As a comparison, the Village Green at Parc Dulles I is 26,000 sf and the Outdoor Pool Area is 31,000 sf.

A 5,000 sf tot lot playground, 8,000 sf bathhouse/clubhouse/community center, 2500 sf swimming pool and 250 sf wading pool are specified in the proffers to be constructed within the active rec spaces prior to the 250<sup>th</sup> zoning permit.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

13. In regard to proffer VIII.C., staff suggests use of the tree conservation area language previously provided to the applicant by the Environmental Review Team. Staff does not support the current proffer, under which the applicant will save only two "key" trees within the Tree Conservation Area.

RESPONSE: The Tree Conservation Area has been revised and expanded and may address this concern. We will review language again with ERT.

14. In further regard to proffer VIII.C., the legend on sheets 4 and 7 include "specimen" trees to be saved or removed, whereas the proffer refers to "key" trees. Staff suggests consistent language be used.

RESPONSE: Revised as requested. Reference to important or larger trees will be "specimen trees."

15. In further regard to proffer VIII.C., staff notes that the Rezoning Plat includes four key trees in the vicinity of the archeology area. However, since these trees are not within the designated Tree Conservation Area, this proffer would not apply. Staff suggests the proffer be revised to also preserve the vegetation in the archeology area.

RESPONSE: The Archaeology Area has been incorporated into the Tree Conservation Area as recommended so referenced trees are protected.

16. In further regard to proffer VIII.C, in the 19<sup>th</sup> line, please change "Tree Save Area" to "Tree Conservation Area," consistent with the rest of this paragraph.

RESPONSE: Revised as requested.

17. Staff suggests a proffer requiring the creation of a Home Owner's Association and/or Property Owner's Association, including a listing of the duties of the Association(s).

RESPONSE: The proffers have been revised to ensure that the property is part of the existing Owner's Association for Dulles Town Center (Proffer X).

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

**DEPARTMENT OF PLANNING**  
**DIVISION OF COMMUNITY PLANNING**

*(Comments received April 29, 2009)*

1. The proposal is not in compliance with the land use policies of the Revised General Plan, which envision the site to develop with 100% large-scale office uses supported by ancillary retail and personal services, along with the appropriate amount of public/civic and parks/open space. Residential uses should not be included within the land use mix given the site's Keynote Employment designation and its location within the Route 28 Tax District. Staff recommends denial of the application as proposed.

Staff also recommends that the Statement of Justification (pg. 7) be revised to reflect that the Destination Retail Overlay policies of the Revised General Plan do not apply to the site. The boundary of the Destination Retail Overlay is located west of the site (Figure 2).

**RESPONSE:** The Statement of Justification has been revised as requested to correct description of the Destination Retail Overlay district.

As noted in the Statement of Justification, all of the 554-acre DTC property is planned for Keynote Employment -- with a destination retail overlay and the option to develop up to 90 acres with "Urban Center" mixed use development. No plan analysis of DTC site identifies locational component. DTC has zoned and has been developing a mixed use center since 1991. The Planning Commission recommended, and the Applicant has provided, a DTC Master Plan that offers a more detailed layout and more realistic vision for the DTC property. The plan maintains all approved commercial yield in a layout that is more likely to be constructed and so more protective of the commercial potential of DTC. In fact, the Applicant has forced the establishment of Keynote office uses by developing a building there well ahead of the market. At this time, another Keynote office use -- the CFC corporate campus -- is being established on the Route 28 frontage as well. The Route 28 frontage is the area where Keynote office potential should be focused.

On the other hand, the Parc Dulles II site is neither zoned for "Keynote" office uses nor is it a competitive location for such uses. The portion of the DTC facing Route 28 will be the preferred location for high quality office space for years to come. The current zoning for Parc Dulles II, PD-IP under the 1993 Zoning Ordinance, does not support 100% office use. Up to 49% office is permitted by an approved Special Exception so 290,284 sf of office is permitted resulting in a .19 FAR for office. In short, to realize office potential, rezoning of

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

July 27, 2009

the site is needed; we believe that for the office potential to be realized, the yield must be relocated to the Route 28 frontage.

The Parc Dulles II site, along with the OP-1 land bay in the Dulles Town Center rezoning, currently provide for 1.588 million square feet of light industrial zoning. The two zoning applications will result in elimination of all light industrial zoning and a modest increase in the space zoned for office use. Table 1 compares the existing and proposed zoning of the 554-acre DTC property and demonstrates how office potential for the property is not only maintained, but is enhanced both in quality and quantity.

Land Bay	Residential	Office	Hotel	Retail	Fire/Rescue	Light Industrial		
OP -1		775,000						
OP-2		750,000						
OP-3		135,000						
TC-1	650	1,100,000	350,000	200,000				
TC-2	580	1,400,000		260,000				
NC-1								
<b>DTC Total</b>	<b>1,230</b>	<b>4,160,000</b>	<b>350,000</b>	<b>460,000</b>				
R-24	445							
PD-CC		40,000		60,000	17,000			
<b>PD II Total</b>	<b>445</b>	<b>40,000</b>	<b>0</b>	<b>60,000</b>	<b>17,000</b>			
<b>TOTAL</b>	<b>1,675</b>	<b>4,200,000</b>	<b>350,000</b>	<b>520,000</b>	<b>17,000</b>			
Existing (1)		3,087,000				1,588,888	4,675,888	
Proposed	1,675	4,200,000	350,000	520,000	17,000	0	5,087,000	
Parc Dulles II property:		592,416	Allowed under PD-IP				411,112	(proposed Increase)
		290,284	Office (up to 49%)					
		302,132	Light Industrial					
1. Existing office square footage refers to balance of available PD-OP square footage; constructed uses not included. Light industrial square footage is the yield at .4 FAR of all PD-IP zoned property within both DTC and PDII applications.								

The proposed Parc Dulles II rezoning is part of an effort to implement a master plan that will:

- Enhance the competitiveness of the DTC property particularly along Route 28 and in the Urban Center for high quality regional office uses, and

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

- Continue to build out DTC as a mixed use development with enhanced pedestrian connectivity, gathering spaces and public park amenities.

Staff noted that the transfer of commercial land use capacity from the Parc Dulles II site to other parts of the DTC property that are more likely to develop as Keynote office was of concern because there were outstanding issues related to the DTC zoning application. The three concerns noted have been addressed:

1. Minimum commitment for the office component within the area proposed for PD-TC zoning. The Applicant has committed to maintain the non-residential component in the land bay facing Route 7 at a .5 FAR. We will work with Community Planning staff to ensure that the proffer language accomplishes this goal.
2. Vertical mix of uses. The DTC project has been revised to ensure that the desired mix of uses is provided in the area proposed for PD-TC zoning. Two residential formats are planned -- hi-rise multi-family with ground floor retail and Urban Residential district with units opening to the street and a portion planned with ground floor retail. Ground floor retail is planned for a significant portion of the office development as well.
3. Phasing plan that balances commercial and residential. A phasing plan has been submitted that specifically addresses this concern.

2. Staff recommends that the proposed development fully comply with the public and civic policies of the Revised General Plan by providing, at a minimum, at least 3.4 acres for these types of uses. Staff recommends that the Applicant continue to work through site design and layout issues with the Department of Fire, Rescue and Emergency Management and the Proffer Matrix Review Team for the proposed public use site. Overall, staff questions the appropriateness of placing a 2-acre fire and rescue station in a predominantly residential development when the standard size for such a use is typically five acres.

**RESPONSE:** The application provides 3.4 acres of civic space – 3.3 acres for a Public Use Site and .1 acres for the community center building. The Public Use Site has been increased in size by 65% in response to staff concerns about size. Further, while the site has been prioritized as a Fire/Rescue site, staff recommended that it be labeled more generally so as to accommodate other uses. Pursuant to staff request, the other referenced uses are public park or teen center.

3. Staff recommends that the project comply with the open space policies of the Revised General Plan by fully incorporating at least 10.2 acres of open space, of which at least 7.7 acres should be internal to the site. An exhibit indicating the size of the individual open space areas would be helpful to determine the project's compliance with these policies. Staff will provide a more detailed open space analysis once this information is available. If it is determined that additional



**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

July 27, 2009

---

open space is needed, staff places a priority on preserving more of the property's forested riparian corridor (see Existing Conditions discussion below). Staff also recommends that proposed community green and tot lot be relocated to a more central location on the site, perhaps adjacent to the riparian corridor.

**RESPONSE:** The Rezoning Plat has been revised to provide 10.2 acres of open space. Interior open space (approximately 60% of all open space) includes active recreation areas - community green/tot lot and village green, the archaeology site and internal tree conservation areas. Exterior open space (40% of open space) includes buffers and BMP/SWM areas; we note that SWM facilities can count as open space if they are developed as wet ponds, and while we anticipate that the primary BMP facility will, in fact, be a wet pond, to be conservative, we have not included it in the open space calculation. Given that the site is less than 50 acres and the proposal is not Keynote, we suggest that the minor variation in mix of open space type is acceptable (60% interior instead of 75%). The open space includes excellent facilities and spaces are well integrated with community center civic use.

4. Lastly, staff recommends that the application provide additional commitments that will ensure that all open space areas will be designed to accommodate and encourage use by residents. Recommended commitments include the following:

(1) that the proposed SWM/BMP facilities will be wet year-round and enhanced with gazebos, picnic areas or walking paths so they can truly serve as community amenities. Without such a commitment, these spaces cannot be used to help fulfill the open space ratio requirement of the land use mix;

**RESPONSE:** While we anticipate a wet pond, the BMP facility has not been included in the interior open space calculation because the design is not certain. The Applicant has committed to moving the BMP "off line" thereby preventing ponding within the stream channel and protecting trees in that channel area.

(2) specific community amenities that will be provided within the open space areas, for example the number and type of equipment to be provided within the tot lot, the amenities included as part of the clubhouse/community center, a minimum number of benches, picnic and/or seating areas to be provided in other open space areas, gazebos adjacent to stormwater management facilities (if provided), enhanced landscaping, etc.; and

**RESPONSE:** A 5,000 sf tot lot playground, 8,000 sf bathhouse/clubhouse/community center, 2,500 sf swimming pool and 250 sf wading pool are specified in



**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

July 27, 2009

---

the proffers to be constructed prior to the 250<sup>th</sup> zoning permit. The definition in the Zoning Ordinance of "playground" includes recreational equipment for children.

- (3) minimum square footages should be established for the Village Green and Community Green in Proffer VIII.C.

**RESPONSE:** 86,400 sf is specified on the plat for 3 spaces – village green, community green/tot lot and pool area – to meet active recreation area requirements. These areas are also located on the plat with which a site plan must be in substantial conformity. It seems that this is a very specific commitment which will guarantee a certain amount of active recreation space in 3 locations, but also allow for some flexibility of final layout in design.

The Village Green as depicted is 21,000 sf while the Community Green is 34,000 sf and the pool area is 31,400 sf. As a comparison, the Village Green at Parc Dulles I is 26,000 sf and the Outdoor Pool Area is 31,000 sf.

5. Staff recommends that the rezoning application provide greater assurances that the office development proposed in SPEX 2008-0027 will occur. Staff recommends that the application commit to a phasing plan that ensures that the project's non-residential component will be developed concurrently with the residential uses. The application should also provide site design commitments that ensure a vibrant, vertically-mixed environment within the proposed PD-CQ(CQ) district.

**RESPONSE:** The amount of retail that can be developed has been capped at 60,000 sf to ensure that the remaining 40,000 must be developed as office uses for that commercial yield to be realized.

6. Should residential uses be approved on the subject property, staff recommends the Applicant consult with the County's Department of Management & Financial Services to determine an appropriate Route 28 Tax District buy-out payment.

**RESPONSE:** We have contacted the Department of Management and Financial Services requesting an estimate for the buy-out payment, and it is our understanding that the Department will provide this figure directly to the project manager.

7. Staff requests additional information regarding the development of community-serving retail uses within the entire 554-acre Dulles Town Center project in order to help determine if the

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

July 27, 2009

---

southern end of the property is an appropriate location for a community-oriented office/retail center as proposed.

**RESPONSE:** The only other community-oriented retail location is at Stephanie Drive and City Center Boulevard. This 5.5 acre site is approved for neighborhood convenience uses by SPEX 1991-0043, approved with the DTC rezoning ZMAP 1990-0014 on December 17, 1991. The approval will accommodate a small grocery store, and while the Applicant continues to market the site for grocery, such a tenant has not yet leased the site. In contrast, the proposed Parc Dulles II commercial center cannot accommodate a grocery and will not function as a small grocery-anchored retail site as the other one does. It will be marketed to smaller retailers, including restaurants, that will complement the larger scale uses in and around the mall.

8. Staff recommends that the proposed project be redesigned to avoid or minimize impacts on the property's riparian corridor to the greatest possible extent by relocating the proposed possible SWM/BMP facility and expanding the Tree Conservation Area (TCA) in order to protect a larger area of the stream's forested buffer. Staff also recommends that appropriate recreational activities (such as a pervious trail, boardwalks over streams and wetlands, and a tot lot) be developed within this area in conjunction with the Dulles Town Center rezoning application (ZMAP 2007-0001).

Staff also urges the Applicant to commit to interpretive signage identifying the site's significant natural resources in order to engender stewardship among the site's future users.

Lastly, staff requests a copy of the jurisdictional determination once it has been issued and recommends that the Applicant commit to prioritizing mitigation on or as close to the subject property as possible. Staff also requests copies of any permits or waivers from the U.S. Army Corps of Engineers and Virginia Department of Environmental Quality which pertain to the site's wetlands and streams.

**RESPONSE:** The Tree Conservation Area has been expanded and the BMP facility moved offline of the stream corridor. In addition, a stream valley plan has been developed as part of the DTC rezoning application (ZMAP 2007-0001), and the portion of the stream traversing the Parc Dulles II site is addressed in that plan. In short, consistent with the proffers and plat, the stream valley is protected, Tree Conservation Area has been expanded and wetlands on site are preserved. Any required mitigation will be consistent with the proffers which prioritize mitigation within Loudoun County.

9. Staff recommends that the project be revised to protect more of the site's existing forest cover by designating the Archaeology Preserve Area and the Community Green & Tot Lot as TCAs on the rezoning plat (Sheet 4). Other opportunities to preserve existing canopy and specimen trees

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

July 27, 2009

---

should also be considered, including within the required buffers, along roadways, and within smaller open space areas, for example pocket parks. Staff also recommends that the draft Tree Conservation Area Proffer (Proffer VIII.C) be revised to be consistent with the language recommended by the County Arborist.

**RESPONSE:** The Archaeology Site has been included in the Tree Conservation Area, as has a portion of the Community Green/Tot lot. We note, however, that the Community Green has to meet the definition of "active recreation" space and so will need to be cleared in part to accommodate play equipment and to provide the well-drained open area as required. We think the proposed to have the Community Green partially within the Tree Conservation Area balances the uses within this open area.

10. Staff recommends that the possible SWM/BMP located online with the riparian corridor be removed and that the area be designated as a Tree Conservation Area consistent with the overall preservation of the riparian corridor, as recommended above.

Staff further recommends that Proffer III be revised to indicate that the project will meet current stormwater management requirements pertaining to water quality and water quantity as opposed to utilizing the previously approved pond, which was designed using previous standards.

Lastly, staff recommends that the Applicant commit to providing stormwater quality pre-treatment on the property to filter runoff entering the riparian corridor in the event that offsite stormwater management facilities will be used to serve the project.

**RESPONSE:** Revised as requested. The BMP facility has been moved offline/TCA increased in size to a total of 3 acres from 1.8 acres. The SWM proffer has been revised also to commit to meeting current standards and employing low impact development.

11. Staff recommends that (1) Note 22 on the Cover Sheet (Sheet 1) be revised to state that manmade steep slopes are present on the property; (2) that the Existing Conditions plat (Sheet 2) distinguish between very steep and moderately steep areas; and (3) the draft proffer statement include commitments mitigating any development that takes place on steep slope areas.

**RESPONSE:** Revised as requested. All slopes on site are man-made and fall into "very steep" category. No moderately steep slopes are located on site. Because steep slopes are man-made, result of construction of City Center Boulevard and Nokes Boulevard, mitigation is not required. Notwithstanding, no development areas encroach into steep slopes.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

12. Staff concurs with DCR and recommends that inventories for rare, threatened, and endangered species be conducted.

**RESPONSE:** The Applicant contacted DCR again for additional assessment of the property. Based on data that has been added to the system since the first request was made to DCR, no additional research is recommended. Correspondence from DCR is included in the Statement of Justification attached as Exhibit C.

13. Staff recommends that the Applicant commit to construction techniques ensuring that all residential buildings built on the subject property will meet or exceed the County's interior noise standards of 51 dBA. Staff encourages a commitment to the U.S. Department of Housing and Urban Development interior noise standard of 45 dBA for the application given the proposed multi-family residential use. Staff also recommends further discussion regarding measures that may be needed to mitigate any impacts from the proposed fire & rescue station on the immediate residential uses.

**RESPONSE:** The proffers have been revised to include a commitment to construction standards that ensure interior noise does not exceed 45 dBA.

14. Staff recommends that archaeological site 44LD947 be protected and conserved in place. Staff recommends that a Phase II investigation of the site be conducted to ascertain site boundaries and site eligibility for the National Register of Historic Places. The Phase II may be limited in scope in the interest of site conservation. The Phase II investigation of the site would likely clarify the social, legal and economic status of the occupants of the site as well. To achieve conservation, staff recommends that the boundaries of the site (as identified by the Phase I survey or by Phase 2 evaluation) be formally mapped using GPS coordinates. The digital map data should be submitted to the County Archaeologist in the Department of Building and Development. Staff recommends a 25 foot buffer surrounding the identified periphery of the site. Staff further recommends that site 44LD947 be protected during the development of the project area with the erection of demountable metal fencing (not plastic snow or silt fencing) at the edge of the 25 foot buffer to ensure that the site is not inadvertently impacted during ground disturbing activities.

If the site is conserved in place staff recommends that all reasonable efforts be made to ensure that the site is conserved after the project area is developed. To this end staff recommends that all future plans and profiles submitted to the County and all relevant associated documents note that the site boundaries and the minimum 25 foot buffer are designated as a conservation area and shall not be disturbed. Relevant documents shall stipulate that the area will not be used as a recreation area, including play ground area, garden, etc., and that trees will not be removed from the area. If tree removal is necessary for any reason, trees must be cut, rather than grubbed or dug out and the County Archaeologist must be consulted. The proffer should identify who will own or maintain the

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

conservation area and provide specific information on how the site should be conserved. Specifically, the conservation area cannot be used as a recreation area. There must be no ground disturbance within the conservation area, including removal or "grubbing" of trees.

Staff further recommends that if conservation of site 44LD947 (during and after development of the project area) is not pursued, Phase II archaeological evaluation of the site and, possibly Phase III excavation of the site occur prior to ground disturbance within the project area. All reports should be submitted to the County for review.

If Phase II evaluation of site 44LD947 is pursued and the site is deemed eligible for listing in the National Register of Historic Places, staff requests that the applicant include a proffer to submit a public narrative regarding the history of the site, who occupied the site, a description of the site in general and a description of features and artifacts recovered at the site, including photographs as called for in the Heritage Preservation Plan. One digital copy of the public narrative should be given to the County and one copy to the Thomas Balch Library to ensure that the information is accessible to interested citizens and researchers. The public narrative is especially valuable to augment the written, public record on historically disenfranchised individuals in the County.

Finally, staff re-iterates the importance of early coordination with the VDHR on conservation or mitigation plans for site 44LD947 should this project require federal review under Section 106.

**RESPONSE:** The Applicant proffers to conserve the Archaeology Site in place and has placed said site within a Tree Conservation Area to prevent disturbance. The site has been defined using the Phase I Archaeological study and expanding the boundaries by approximately 25'. Fencing will be placed around the site during construction for protection.

15. Staff recommends a commitment to lighting that is downward directed, fully shielded, and in full conformance with Zoning Ordinance requirements. All lighting should be designed to preclude light trespass onto adjoining properties, glare to passerby, skyglow, and deterioration of the nighttime environment.

**RESPONSE:** The Applicant does not object and will incorporate a lighting commitment, subsequent to discussion with staff, in the next submission.

15. Staff recommends that the Applicant commit to incorporating sustainable and energy efficient design and construction principles during the development of this project.

**RESPONSE:** The Applicant does not object to a proffer that all HVAC equipment meet Energy Star standards. This is a valuable commitment since HVAC is typically the most

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

July 27, 2009

---

significant energy user in residential construction. Subsequent to discussion with staff, this provision will be incorporated.

16. Staff recommends that the application provide substantial commitments regarding overall site and architectural design that address the comments above and will ensure a high-quality built environment consistent with Parc Dulles I. This could be accomplished by developing and committing to design guidelines that will outline design commitments for the proposed development, detailed proffers, or a combination of both. Staff welcomes a meeting and possible site visit with the Applicant to further discuss this and other recommendations in this referral.

**RESPONSE:** The proffers have been revised to use the quality of architecture and construction at Parc Dulles as a benchmark for Parc Dulles II.

17. Staff recommends the following commitments regarding pedestrian and bicycle circulation:

- 10-foot wide shared use paths along both Nokes Boulevard and City Center Boulevard;

A 5' sidewalk is provided along City Center Boulevard to be consistent with the existing 5' sidewalk in Parc Dulles. Because of the steep slopes at the edge of the property, there is not adequate space adjacent to City Center Boulevard for a 10' trail without construction of retaining walls. Along Nokes Boulevard, 8' asphalt trail is provided.

- Trails to and through the open space and recreational amenities (including pervious trails within the stream corridor and raised boardwalks over wetlands);

**RESPONSE:** Additional discussion with ERT is ongoing with respect to stream valley protection. Pervious surface trails are not shown, but will be added if stream valley plan shows them.

- Appropriate intersection treatments throughout the proposed development to distinguish between pedestrian and vehicular movement;

**RESPONSE:** Crosswalks have been added throughout to address this concern.

- Ample bicycle parking; and,

**RESPONSE:** Additional discussion is required.

- The provision of streetscape elements that are designed to encourage and foster pedestrian travel such as enhanced landscaping, street furniture, lighting, etc.



**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

July 27, 2009

---

**RESPONSE:** Additional discussion is required.

18. Staff recommends that the application commit to providing a mix of Affordable Dwelling Units (ADUs) that are dispersed throughout the community. It would be appropriate if the size of the ADUs (i.e., 1, 2, or 3-bedroom units) being provided are proportionate to the proposed market rate units.

Staff further recommends that in addition to ADUs, the Applicant provide a commitment that addresses the full spectrum of unmet housing needs up to 100 percent of the AMI. Providing actual units rather than a cash contribution would be preferred given that locating affordable housing near transit stations, such as the one planned on the Dulles Town Center property, is critical to providing affordable lifestyles for low and moderate-income families who may be particularly transit-dependent.

Staff also encourages the Applicant to consider incorporating housing for special needs populations as well as universal design principles into the project.

**RESPONSE:** The Applicant has proffered to provide 6.25% of all units as ADUs, which will be distributed throughout the project consistent with Zoning Ordinance requirements. Further, we note that the rental rates for the existing apartment projects – Remington and Parc Dulles – are generally between 95% and 120% of AMI. In essence, the entire project helps address unmet housing needs because it balances the Loudoun market which is heavily weighted to single family homes.

19. Staff recommends that the total impacts on capital facilities of the proposed residential development be mitigated.

**RESPONSE:** The Applicant has proffered the per unit capital facilities contribution required when the application was submitted which would result in a total contribution of \$4.5 million. A key value to the County is that this project is anticipated to be served by existing school capacity in the Park View cluster, which is underutilized at this time.

20. The open space calculations for residential projects may be more appropriate in this case, which call for a contribution of between \$1,298,650 and \$1,708,750.

**RESPONSE:** The Applicant is providing 30% open space along with high quality community facilities. Parc Dulles II is also part of the DTC property which is proposed to be served by numerous open spaces and parks, including Hadley's Park enhanced with a covered amphitheatre.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

**PROFFER MATRIX TEAM**

*(Comments dated April 3, 2009)*

[Preamble] Please revise the proffer statement to change all references of the "Applicant" to the "Owner" as provided in the Preamble of the proffer statement. The terms "Applicant" and "Owner" are used interchangeably throughout the draft proffer statement. The Preamble clearly provides that DTC Partners, LLC, are to be referred to as the "Owner" throughout the proffer statement.

**RESPONSE:** Revised as requested to reference "Owner."

[Proffer I.A] Please revise Sheet 6 of the Concept Development Plan (CDP), the Special Exception Plat for the Fire & Rescue Station, to eliminate the outline of the building provided on the plat. Staff is concerned that if a building outline is depicted on the Special Exception Plat, the County will be forced to put the Fire & Rescue Station in the depicted location on the Special Exception Plat to remain in substantial conformance with the Special Exception. Please outline the parcel with a bubble diagram and note that the location and orientation of the Station would be at the discretion of the County after its Engineering and Design is complete.

**RESPONSE:** We are happy to provide the Fire/Rescue Special Exception as a bubble plan. We look forward to working with the project manager to ensure that appropriate direction is provided for this approach.

Please also provide that the locations of the Affordable Dwelling Units (ADU) need to be dispersed throughout the market rate units on the property, and their location needs to be displayed on the record plat. In the event the Owner is exempt from providing proffered ADU's due to exemptions provided in Section 7 of the Revised 1993 Zoning Ordinance, Staff requests that the Owner consider proffering 6.25% of the multi-family units as ADU's anyway, or as Workforce Housing units. The Owner may also consider making a cash contribution into the County's Housing Trust Fund.

**RESPONSE:** The Applicant has proffered 6.25% of all units to be provided as ADUs so will not be exempt from such requirement.

[Proffer I.B] Please revise the proffer statement to state, "The Property will be developed in accordance with the PD-CC (CC) Zoning District, pursuant to Section 4-200, and the R-24 Zoning District, pursuant to Section 3-700 of the Revised 1993 Loudoun County Zoning Ordinance and any subsequent amendments of the Zoning Ordinance.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

**July 27, 2009**

---

**RESPONSE:** Revised as requested.

[Proffer II] Please revise the proffer statement to provide that all public water and sewer in the development will be provided at no cost to Loudoun County or to Loudoun Water.

**RESPONSE:** Revised as requested.

[Proffer III] Please be advised that while the County maintains all Stormwater Management facilities in the County, the County is only responsible for maintaining certain types of stormwater management facilities. Please consult with the County's Department of General Services regarding the types of Stormwater Management facilities to be developed on the property, and to be maintained by the County.

**RESPONSE:** We appreciate the guidance and will consult with the Department of General Services regarding maintenance.

[Proffer V.A] Please note that the primary internal access point to the proffered Public Use Site is along a private road. The County typically requires that Public Use Sites be provided along public roads. For a Public Safety facility, access along a public road is crucial to coordinate the development and proper location of access points to the site, median breaks, line of sight, traffic signals and traffic signal preemption devices with VDOT. Furthermore, public roads are built to a standard that is better for heavier fire and rescue vehicles, as well as wider to provide adequate turning radiuses for Fire Vehicles. While a right-in/ right-out access point is provided to the Public Use Site along Nokes Boulevard with a proposed median break, the lack of a signal to stop traffic and the inability to control cars from using the directional median break improperly will potentially cause safety hazards and slow response times to emergencies. Without a median crossover allowing a left turn out of the site, and the addition of signal pre-emption devices at nearby traffic signals, response times to emergencies will be compromised.

**RESPONSE:** The primary access point to the Public Use Site is from Nokes Boulevard, a public road. The internal access that is provided can be used (or not used), signed and controlled as the County sees fit; it is merely an option. Certainly it provides the opportunity to serve as a secondary access, for employees and visitors. We defer to the Department of Fire, Rescue and Emergency Management on how to use the internal access point. The median break is directional and has been labeled for "Emergency Vehicles Only." Further, emergency vehicles can always reenter the site from the east and a special exception condition could direct such use if desired by the County.

The Owner will need to devise a Road Maintenance Agreement for the construction and continued maintenance of the private road providing primary access to the northern portion of the proposed

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

July 27, 2009

---

Public Use Site. The Road Maintenance Agreement must provide that the County shall have no responsibility for the plowing, maintenance, replacement or construction of the road. The agreement must also ensure that the Owner provides maintenance for the road to support around the clock Fire & Rescue operations. The agreement shall require the Owner to respond immediately to any issues Emergency Responders may have with the private roads leading into and out of the Station. Any private road providing access to a Public Use Site should be constructed to public road standards.

**RESPONSE:** Further discussion is needed. Clearly the Applicant will maintain the roadway, but coordination with the Department of Fire, Rescue and Emergency Services is needed to determine how they will use the internal point of access.

[Proffer V.B] Please revise the proffer statement to include the Owner will provide all necessary right-of-way and related easements outside of the right-of-way, such as slope, maintenance, storm drainage, and utility relocation easements, at no cost to the County, necessary to construct the extension of Haleybird Drive to its intersection with Ridgeway Circle. Prior to the issuance of the first occupancy permit for any residential unit on the property, the Owner shall construct or bond to construct a 2-lane section of Haleybird Drive from its current terminus within the Dulles Town Center property to its intersection with Ridgeway Circle.

**RESPONSE:** Revised as requested.

[Proffer V.C] The cash contribution of \$337 per residential unit on the property will yield approximately \$149,965 in cash contributions towards the proposed traffic signal at the intersection of Nokes Boulevard and the entrance to the property. Given the proximity of this traffic signal to the proposed Public Use Site, which may be developed as a Fire & Rescue Station, the proposed signal at the intersection of Nokes Boulevard and the Property entrance will require traffic signal preemption devices. Staff believes the cash contribution of \$149,965 may not be adequate to provide the necessary signal with a preemption device at this location. Please consult with the Office of Transportation Services and the Department of Fire & Rescue Services to consider increasing the proposed cash contributions to cover the estimated cost of the proposed signal.

**RESPONSE:** This proffer offers significant value to the County and remains as proposed.

Please revise the proffer statement to provide that the traffic signal cash contributions may be used for regional road or transit improvements in the Sterling Planning Subarea of the County in the event the warrants for a traffic signal are not met after the warrant analysis is performed by the Owner prior to the issuance of the 300th zoning permit.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

**RESPONSE:** The proffer already states that the cash contribution may be used within the DTC property if a signal is not warranted.

[Proffer V.D] Please consult with the Office of Transportation Services regarding whether or not \$30,000 is a sufficient cash-in-lieu payment for the acquisition of two bus shelters. The County has recently approved a standard for public and private bus shelters installed in Loudoun County. Developers are encouraged to follow this bus shelter standard when installing shelters along fixed bus routes in Loudoun. The purpose of the standard is to reflect consistency of transit related products throughout the County.

**RESPONSE:** The proffer has been revised to commit the Owner to providing 2 bus shelters, constructed to County standards, anywhere within the DTC property, after the 400<sup>th</sup> residential permit. The bus shelters will be sited and constructed at the request of the County so as to be coordinated with County plans.

[Proffer VI.A] Please revise the proffer statement to indicate the average per unit cash contribution in the absence of any capital facility credits. The per unit capital facility contribution amount will not be known for certain until all appraisals of the proffered Public Use Site have been conducted. It is sufficient to state that the Owner will provide \$18,904 per market rate, multi-family unit at the issuance of each zoning permit. Without knowing the exact amount of the capital facility credit for the proffered Public Use Site, if accepted by the Board of Supervisors, the capital facility contribution per each residential unit constructed is \$17,715 ( $(\$18,904 \times 417) / 445 = \$17,715$ ).

**RESPONSE:** The Applicant has proffered the capital facilities contribution anticipated when the application was submitted - \$10,937. Because adequate school capacity exists in the Park View cluster, and LCPS will recommend to the school board that this property be served by the Park View cluster, the typical school capital facilities impact is not anticipated because new construction is not needed.

[Proffer VI.B] Please refer to the proffered "Fire & Rescue Site" as a "Public Use Site". The County refers to all proffered capital facility sites as "Public Use Sites" to ensure there is flexibility in the use of the site for other public purposes. The County's intended use for this site is a Fire & Rescue Site; however, in the event a Fire & Rescue Station cannot be developed on the parcel, the County reserves the right to develop other, permitted public uses on the proffered parcel.

**RESPONSE:** Revised as requested; subsequent uses, if not needed for a Fire/Rescue site, in response to staff request is public park and teen center.

Please revise the proffer statement to provide that within 30 days of the approval of this zoning map amendment application, the Owner will submit a land development application to create the parcel

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

for the Public Use Site. The Applicant shall agree to diligently pursue the approval of the record plat for the Public Use Site parcel within 6 months of the submission of the land development application to create the parcel. The Owner shall dedicate the Public Use Site to the County, and provide all necessary utilities and roads to the Site as outlined below, within one year of the approval of this zoning map amendment application, ZMAP-2002-0017.

**RESPONSE:** Revised as requested to reference "Owner."

Please revise the proffer statement to stipulate that all permanent water and sewer, and underground telephone, electric, gas, cable, broadband and telecommunication lines will be provided to the proffered Public Use Site, at no cost to the County, prior to dedication of the site to the County. To ensure all public water and sewer are being provided to the site at no cost to the County, Staff requests that the Owner pay for all tap fees and hookup charge backs to access the public water and sewer systems at the Public Use Site. The proffer statement needs to stipulate that the proffered Public Use Site will be excluded from any Owner's Association.

**RESPONSE:** Further analysis indicates that water service is already located within 100' of the Public Use Site and sewer service is within 400' of the site. Because the timing of construction of a Fire/Rescue Station in relation to the commercial center is unknown, and utility service is already very close, we seek County agreement to make the final extension of utilities. The BMP facility is sized to serve the Fire/Rescue Station, however, if the station is developed first, a temporary BMP may be needed. The Applicant will coordinate with the County to identify a location outside of the Public Use Site and provide temporary easements; when the commercial center is constructed, and the BMP is complete, storm water management will be shifted from the temporary facility to the BMP.

The Applicant does not agree to pay for telephone, electric, gas, cable, broadband, utility connection and tap fees.

Please revise the proffer statement to include a provision that the proffered public use site will not be used for staging, dumping, or other activities prior to conveyance of the site to the County. The County intends to receive dedication of the site upon approval of the record plat creating the lot, and would request that the Owner not disturb the property until conveyance is finalized. The County needs to ensure that no dumping, stockpiling of construction debris or other harmful materials is occurring on the site prior to conveyance.

**RESPONSE:** Revised as requested.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

**July 27, 2009**

---

Please revise the proffer statement to state that the Owner will bond for construction and construct all private roads adjacent to the proffer Public Use Site, or required to access the Public Use Site, with required turn lanes and adequate transitions, prior to issuance of the occupancy permit for the public facility at the site. The Owner must also bond for construction and construct all onsite roads and trails within the development as depicted in the CDP. Fulfillment of the proffers will be contingent upon the construction of all proffered roads and trails as depicted on the CDP.

**RESPONSE:** Further discussion may be needed to clarify coordination of the F/R site with the commercial center.

Please be advised that the County's capital standard for a proffered Fire & Rescue Station is at least 5 acres. The proffered 2-acre Public Use Site does not fit the County's capital facility standard. The Owner is not eligible to receive an automatic capital facility credit for the dedication of this site. The Owner may obtain a capital facility credit for the dedication of this parcel only upon approval of the Loudoun County Board of Supervisors.

**RESPONSE:** The Public Use Site has been increased by 65% to 3.3 acres. In addition, storm water management is provided for off site, so that this feature need not be accommodated within the 3.3 acre site.

Public Use Sites two acres in size or less are typically proffered for residential purposes – MH Group Homes, Transitional Homeless Shelters, etc. The PD-CC (CC) zoning district does not allow residential uses. Therefore, given the limited size of the proffered site and the underlying zoning regulations, the only other capital facilities that could be developed on the proffered Public Use Site are a Recycling or Special Waste Drop-Off Center, an Eastern Health Clinic, and an Adolescent Day Treatment Center. Given the County's need for a Fire & Rescue Station in the Route 28/7 Corridor, the County requests that the size of the Public Use Site be increased to 5-acres to meet the County's capital facility standards for Fire & Rescue Stations. Staff is willing to discuss with the Owner alternate locations for the Public Use Site along public roads to meet the needs of the County and the community for a Fire & Rescue Station in the Route 7/Route 28 corridor.

**RESPONSE:** Per staff recommendations, the Public Use Site may be used for a public park or teen center if the Fire/Rescue site is not developed here.

Furthermore, based on the CDP, it appears as though part of the proffered Public Use Site includes the proposed private road located along the northern side of the Public Use Site. The location of the private road on the Public Use Site further limits the developable land area of the parcel. The acreage of the Public Use site should be exclusive of the area of the private road.

**RESPONSE:** The proposed 3.3 acres is exclusive of the private road access point.



PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

The Owner's proffered site will be evaluated for suitability by the County against Loudoun County's Usable Land Criteria for Public Use Sites, and must meet these Criteria. The Criteria are available upon request from the County's Office of Capital Construction. The usable acreage must be exclusive of the encumbrances and conditions listed in the Criteria. The Owner shall prepare and issue a report that demonstrates that the proposed site meets each of the Criteria.

The value of any on-site land dedication will be determined by an appraisal of the land using the procedures established under County policy for Proffer Land Value Credit Methodology. These procedures are available upon request from the project manager in the Planning Department. This appraisal determines the Capital Facility Credit provided to the Owner for the dedication of the site.

**RESPONSE:** The Applicant has requested an appraisal of the 3.3 acre site and will provided it as soon as it is available.

[Proffer VI.C] Please revise the proffer statement to provide that the Open Space Easement contributions shall be used by the County to purchase open space or to provide active recreation facilities in the Sterling Planning Subarea of the County.

**RESPONSE:** Revised as requested.

[Proffer VII] Please consult with the County's Department of Management & Financial Services to determine the Route 28 Tax District Buy-Out payment for removing the proffered Public Use Site from the Route 28 Tax District. The Department of Management & Financial Services determines the Buy-Out payment.

**RESPONSE:** A request has been submitted for estimates on the buy-out payment. It is our understanding that the Department of Management and Financial Services will provide this information to the project manager at the appropriate time.

[Proffer VIII.B] Please revise the proffer statement to include a specific description of the Recreational amenities provided as part of this zoning map amendment. For example, please provide a description of the number and type of equipment provided within the tot lot playground, the amenities included as part of the clubhouse/community center, and the length and width of the swimming pool.

**RESPONSE:** A 5,000 sf tot lot playground, 8,000 sf bathhouse/clubhouse/community center, 2,500 sf swimming pool and 250 sf wading pool are specified in the proffers to be constructed prior to the 250<sup>th</sup> zoning permit. "Playground" is a defined term in the Zoning Ordinance and includes play equipment.



**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

**July 27, 2009**

---

86,400 sf is specified on the plat for 3 spaces – village green, community green/tot lot and pool area – to meet active recreation area requirements. These areas are also located on the plat with which a site plan must be in substantial conformity. It seems that this is a very specific commitment which will guarantee a certain amount of active recreation space in 3 locations, but also allow for some flexibility of final layout in design.

The Village Green as depicted is 21,000 sf while the Community Green is 34,000 sf and the pool area is 31,400 sf. As a comparison, the Village Green at Parc Dulles I is 26,000 sf and the Outdoor Pool Area is 31,000 sf.

[Proffer X] Please revise the proffer statement to provide that all cash contributions provided in this proffer statement shall be adjusted annually by the Consumer Price Index (CPI-U) All Urban Consumers, Washington-DC-MD-VA-WV.

**RESPONSE:** Escalation is not addressed in the proffers.

[HOA] Please revise the proffer statement to provide for a Homeowner's and/or Owner's Association for the resulting residential units and commercial lots developed as a result of this zoning map amendment. There are no provisions in the proffer statement for the establishment of an Owner's Association, or the inclusion of the Property into any existing Owner's Association. Please stipulate that all sidewalks and trails within the development will be maintained by the Owner's Association. The Owner's Association will also be responsible for the maintenance and landscaping of all common areas and open space, trash removal and recycling services, snow removal, and the maintenance of private roads.

**RESPONSE:** Revised as requested.

[Recycling] Recycling is mandatory in Loudoun County per Chapters 1084 and 1086 of the Loudoun County Codified Ordinance. Building design should include consideration for inside and outside storage of solid waste and recyclable materials to ensure future residents/commercial tenants are able to comply with the County recycling requirements. For non-residential establishments, Chapter 1084.08 (d) sets the minimum required storage capacity for recyclables at 25% of, and in addition to, the total planned solid waste storage capacity.

Additionally, developers and contractors are encouraged to establish a recycling plan for recyclable materials that will be generated during land clearing, construction and demolition.

[Litter Control and Prevention] Construction sites are required to have separate receptacles for construction waste and workers' litter per Chapter 1088.08(b) of the Loudoun County Codified Ordinance.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

**RESPONSE:** We understand the requirements related to recycling and construction waste and will comply with both.

[Transportation Demand Management (TDM) Program] Proffer Statements should reflect that the initiation of the TDM program upon issuance of the first zoning permit within the commercial zoning districts. The program needs to be in place when the first employees are hired and working from the area, and can be used by employers to help recruit potential employees.

**RESPONSE:** We will comply with all transportation-related requirements.

**SUSAN GLASS, ADDITIONAL COMMENTS**

*(Comments dated 4/3/2009)*

1. Proffer V.C, Signalization: Last sentence "In the event the signal is constructed, the Owner shall install pedestrian activated devices for the signal, subject to VDOT approval." Who is responsible for installing a cross walk? If pedestrian activated devices are to be installed, a cross walk should also be installed.

**RESPONSE:** The Applicant will provide crosswalks, consistent with VDOT approvals.

2. Proffer VI.B.1, Fire and Rescue Site: A specific time frame should be stated for the dedication of the fire and rescue site. As currently drafted, the site "shall be dedicated following approval of this application as soon as the County approves a record plat that creates such lot. The Applicant agrees to diligently pursue approval of such record plat." The application to create the fire and rescue site should be submitted within X days following approval of the application (30, 60 or 90 days would be reasonable). The language for the applicant to diligently pursue approval of the application should be retained.

**RESPONSE:** The proffers have been revised to commit to submission of the application to create a parcel within 60 days of expiration of the 30 day appeal period for ZMAP 2002-0017.

3. Proffer VI.B.2, Capital Facilities Credit: The amount of the capital facilities credit should be specified in the proffer. When will the appraisal be performed?

**RESPONSE:** An appraisal has been requested and will be provided as soon as it is available.

**PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

**July 27, 2009**

---

Proffer VIII.C, Tree Conservation Area: Construction of the proposed stormwater management pond will probably extend into the tree save area. The applicant should include the area of the fore bays that are needed for the stormwater management pond.

**RESPONSE:** The plat has been revised to ensure that the BMP is off line from the stream channel, and the Tree Conservation Area has been expanded to provide additional preservation of forested areas.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

**OFFICE OF TRANSPORTATION**

*(Comments dated March 23, 2009)*

1. **Access from City Center Boulevard.** The concept plan shows a right-in/right-out entrance onto City Center Boulevard which does not appear essential for traffic circulation and will create friction on northbound travel on City Center Boulevard. Therefore, it is recommended that this entrance be removed from the concept plan. The applicant notes that a curb cut and right turn lane already exist at this planned entrance location and were constructed pursuant to the Construction Plans and Profiles for City Center Boulevard. In addition, the applicant notes that northbound friction will be minimized at this location since this entrance has always been planned. This needs further explanation and discussion. It is unclear to OTS staff how friction on northbound City Center Boulevard will be minimized with the proposed entrance as compared to without it. The question to be answered is, will the adjacent intersections which serve the site traffic operate acceptably without the right in/right out? Please clarify.

**RESPONSE:** Access from City Center Boulevard has been eliminated from the proposal.

2. **Completion of Haleybird Drive.** When is Haleybird Drive expected to be connected to the east to Ridgetop Circle? Please update. The applicant notes that they have proffered to construct a half-section of Haleybird Drive off-site to the east to connect with Ridgetop Circle at an unspecified time. The four lane section of Haleybird Drive is already completed on-site. The applicant proposes to provide the half-section of Haleybird Drive to Ridgetop Circle prior to the issuance of the first certificate of occupancy for the residential portion of Parc Dulles II. This raises other issues. There is no other party with commitments to construct the other half-section of Haleybird Drive. Please note that Loudoun Tech Center is only obligated to provide right-of-way for Haleybird Drive which has already occurred. Dulles Town Center is obligated to construct two lanes across the Loudoun Tech property to Ridgetop Circle upon request of the County under the proffers for ZMAP 1990-0014. We don't have another commitment to build the other two lanes. It is recommended that this applicant construct the other two lanes. Please note that VDOT will not accept incomplete roads into their system without a guarantee of completion from the County.

**RESPONSE:** The Applicant will construct (or bond for construction) two lanes of Haleybird Drive to Ridgetop Circle prior to issuance of the first occupancy permit for residential use of the property.

Commercial property abuts Haleybird to the east of the Applicant's property, so frontage improvements will be required to be designed and installed with future development. Coordination with future users is required to complete a full section. The Applicant understands the VDOT acceptance process and the risk that some configurations are difficult to have accepted.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

4. Recommendations for improvements to the area road network and transit will follow after review of an acceptable traffic study from the applicant. The applicant has included several transportation related commitments with the proposed application as follows:

- The full dedication to VDOT of all necessary right-of-way plus provision of all necessary construction-related easements for Haleybird Drive between City Center Boulevard and Ridgetop Circle.
- Extension of Haleybird Drive east as a two-lane facility from its current terminus to Ridgetop Circle for a distance of approximately 600 feet.
- Contribution of \$337 per residential unit totaling \$149,965 towards signalization at the site entrance and Nokes Boulevard.
- The provision of two bus shelters or, if not provided by the issuance of the 400th residential permit, provision of a cash-in-lieu contribution of \$30,000.
- Provision of minimum 5-foot wide sidewalks along the site frontage on Nokes Boulevard, City Center Boulevard and Haleybird Drive.

OTS has several recommended changes to the draft proffer commitments as discussed below. First, the applicant needs to provide the complete extension of Haleybird Drive east to Ridgetop Circle to avoid Loudoun County from having to guarantee the other two lanes. Second, the proposed \$149,965 signal contribution is inadequate. Traffic signals at the present time cost in the range of \$250,000 to \$300,000 to construct. The applicant simply needs to provide the traffic signal when warranted as well as commit to provide a warrant study prior to the issuance of the 300th zoning permit. Also, will the traffic signal be coordinated with Fire & Rescue and contain any type of emergency component? Any modifications need to be committed by the applicant if necessary. Finally, the trails need to be 8 feet wide to accommodate both pedestrians and bicycles.

**RESPONSE:** Construction of Haleybird will be complete prior to occupancy of the residential unit on the property. We understand the risks and challenges of working with VDOT to have this segment included in the public road system, but because of the need to coordinate with adjacent property owners to the north of Haleybird, construction of a 4-lanes section is premature at this time.

Signalization along Nokes will be provided as proffered; we anticipate that emergency signals will be located east of the Fire/Rescue station to control traffic in conjunction with an emergency component in the Nokes signal.

An 8' trail has been provided along Nokes.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Second Round Referral Comments

July 27, 2009

---

5. At the proposed site entrance onto Nokes Boulevard, only one southbound/one northbound lane is indicated in the applicant's traffic study and concept plan. In order to accommodate fire and rescue vehicles at this intersection, which is anticipated to be signalized, an additional lane in each direction are recommended from the applicant for the southbound site approach to Nokes Boulevard. This will allow for more room and thus safer passage of fire/rescue vehicles during an emergency.

**RESPONSE:** Additional discussion with Fire/Rescue is requested to ensure that the access points are designed as needed to accommodate planned functionality. Emergency vehicles could be restricted from returning through the center.

6. In addition to the proposed bus shelters, the applicant needs to participate financially in the provision of a circulator bus service as part of the surrounding Dulles Town Center site and OTS staff is available to discuss this. Also, the location of the proposed two bus shelters from the applicant need to be coordinated with the Loudoun Office of Transportation Services transit manager.

**RESPONSE:** As noted in the DTC application, we do not believe a circulator bus system is viable at this time. The bus shelters will be constructed at the request of the County, to County standards, any time after 400<sup>th</sup> residential occupancy permit.

7. The applicant's traffic study notes that the Route 7/City Center Boulevard/Countryside intersection is and will continue to operate at a failing level-of-service. The traffic study also mentions potential restrictions on turns at this intersection as a possible amelioration. The proposed development traffic from this application will worsen the situation at this intersection. The applicant's draft proffers do not address this. Further discussion is needed with the applicant, as well as VDOT and other stakeholders who would be affected by such restrictions.

**RESPONSE:** We are pleased to participate in ongoing discussions and plan to do so. "Potential restrictions on turns" are part of the Applicant's proposal to improve pedestrian safety in the Route 7 / City Center Boulevard intersection. The proposal is offered as a temporary improvement pending County and VDOT decision making on a pedestrian overpass or other more significant infrastructure change.

8. The applicant's traffic study didn't show the distribution percentage for site traffic on Haleybird Drive although traffic is assigned to it. Also, the lane geometry for Haleybird Drive should reflect a four lane divided cross section. The traffic study (on Figure 3) only shows one west bound lane, not two. Please clarify.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

July 27, 2009

---

**RESPONSE:** The section of Haleybird on site is 4-lanes undivided and will transition to two lanes offsite. As noted above, access to other property offsite needs to be accommodated.

9. The applicant needs to commit to provide right-and left-turn lanes at all site entrances in keeping with the lane geometry represented in the applicants traffic study. These turn lanes need to be constructed to VDOT standards.

**RESPONSE:** All entrances are from public roadways and will be constructed to VDOT standards to be permitted.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

July 27, 2009

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**OFFICE OF CAPITAL CONSTRUCTION**

*(Comments dated April 3, 2009)*

**DEPARTMENT OF FIRE, RESCUE AND EMERGENCY  
MANAGEMENT**

*(Comments dated April 1, 2009)*

Staff continued to express concern about the size of the proffered Fire/Rescue Site.

**RESPONSE:** The site has been increased to 3.3 acres, and storm water management is provided off site. With regard to utilities, the Applicant has agreed to provide utilities but requests further discussion with staff to discuss issues related to timing of development of the Fire/Rescue site and interparcel connectivity with commercial center.

**DEPARTMENT OF PARKS, RECREATION AND COMMUNITY  
SERVICES**

*(Comments dated April 2, 2009)*

**Issue Status:** PRCS appreciates the Applicant's contribution to the immediate community recreation needs of the future residents of this application, as well as the contribution to the Open Space Easement Program. However, Staff still notes that these onsite amenities will not completely satisfy the recreational needs of the future residents of this project. The proposed onsite amenities will not completely mitigate the potential impact on existing public recreational facilities.

Future residents will require usage of public athletic fields, recreation centers and/or community centers, hiking trails, etc. Therefore, PRCS recommends that the Applicant proffer to further develop existing public recreational facilities within a 1-mile radius of the project area. Staff recommends proffering to a specific public park improvement.

**RESPONSE:** Like each other residential community in DTC, high quality recreation and community spaces are provided on site. Numerous park facilities, public and private, are proposed with the related DTC rezoning, as well. Finally, the Applicant has revised the proffers to prioritize park needs, specifically a public park or a teen center, at the Public Use Site, if the Fire/Rescue site is developed elsewhere.

**Issue Status:** Staff appreciates the addition of crosswalks, but noted that they are not graphically delineated or labeled on the Rezoning Plat. Please revise the Plat accordingly.



**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Second Round Referral Comments**

**July 27, 2009**

---

**RESPONSE:** The provision of cross walks has been addressed in the proffer regarding Pedestrian Network.

**Issue Status:** Staff maintains that 5'-wide sidewalks are not adequate for bicycle mobility, and recommends that the proposed sidewalks along Nokes, Boulevard, City Center Boulevard and Haleybird Drive along the outer limits of the development be upgraded to a multi-use 8' asphalt trail.

**RESPONSE:** The Nokes Boulevard frontage will be constructed with the 8' asphalt trail, however the topography along City Center Boulevard accommodates only construction of a 5' sidewalk. Similarly, Haleybird is not a baseline connecting roadway or even a minor collector and can be well service by a 5' wide sidewalk.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**~ Response to Third Round Referral Comments ~**

August 31, 2009

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**OFFICE OF ZONING**

*(Comments dated August 14, 2009)*

Outstanding comments from the April 13, 2009 zoning referral are repeated below, followed by additional staff comment on the issue. A limited number of new comments are provided.

- **Comment A.2.**

Section 3-702, Size and Location. The private road layout will not comply with Section 3-702(A) once subdivision occurs. Direct access for lots created after the adoption of the Ordinance to major collectors shall be provided only via minor collector roads. Given the proposal to dedicate two acres for the fire/rescue parcel, lots will be created. To meet this section, staff previously requested a public minor collector road into the R-24 district from City Center Boulevard. The applicant, instead, revised the location of the zone line between the R-24 and PD-CC(CC) districts. This does not fulfill the intent of this section. Moreover, a use may not be accessed via a private road through an adjoining district in which that use is not allowed. Since multifamily dwelling units are not permitted in the PD-CC(CC) district, the applicant cannot serve the multifamily residential with a private road through the PD-CC(CC) district. Likewise, as many of the commercial uses permitted in the PD-CC(CC) district are not allowed in the R-24 district, the applicant cannot serve those commercial uses with a private road from the R-24 district. A public road is needed to access uses between the two districts and proffer V.A. should be revised to reflect this change.

***Additional Staff Comment:*** *Staff continues to recommend a public road be built through the site. However, should the Board of Supervisors approve the requested modification to Section 4-206(D)(2) for private roads, the revised layout will comply with R-24 and PD-CC(CC) district requirements.*

**RESPONSE:** We appreciate recognition of compliance with district regulations.

- **Comment A.3.**

Section 4-204, Special Exception Uses (B) Community Center (7), Fire and/or rescue station. Staff reiterates the prior comments concerning the size and layout of the proposed

*Attachment U*

*A-224*

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

---

fire/rescue site. Public uses of this type typically require 5 buildable acres as opposed to the two acres proposed by the applicant. The return route through the shopping center requires fire/rescue vehicles to travel along a road with angled parking, such that motor vehicles will back up into the return route, creating the potential for conflicts between motor vehicles and fire/rescue vehicles. Staff urges continued coordination with VDOT to ensure that the directional median break on Nokes Boulevard can be established as shown on the Rezoning Plat (sheet 4) and SPEX plat (sheet 6). The two access points from the north that intersect with the return route remain a concern. The design still creates multiple conflict points between the residential/commercial users and the fire/rescue vehicles. The applicant has not specifically addressed the level and impact of noise that will be generated or any mitigation measures. Staff maintains that the proposed site is not large enough and continues to pose internal and external vehicle circulation hazards. Staff does not support approval of SPEX 2008-0026 at this time.

***Additional Staff Comment:** There are still numerous issues concerning the fire/rescue site including size, vehicular circulation, potential conflicts between residential/commercial users and the fire/rescue vehicles, and noise. The response (p. 3) also indicates that a prior request for buffer reduction has been removed. However, the modification to Section 4-205(C)(2) continues to request reduction of the required yard between the R-24 and PD-CC(CC) districts.*

**RESPONSE:** The proposed Special Exception has been revised to address the above referenced issues as well as the potential situation in which a fire/rescue site develops prior to the adjacent commercial center. (See Revised Statement of Justification and Special Exception plat). We understand that some flexibility may be needed by the Department of Fire, Rescue and Emergency Management to accommodate design and engineering. We look forward to working with the Planning Commission to clarify the best approach to a productive zoning framework for the Fire/Rescue site.

- **Comment A.4**

Section 6-1211(E), Zoning Map Amendments. This section lists the matters to which the Planning Commission shall give reasonable consideration. Overall, staff finds that the proposed rezoning runs counter to a number of these matters, discussed in more detail in comments B.1. through B.6. below.

***Additional Staff Comment:** The proposed rezoning runs counter to a number of the matters for consideration in Section 6-1211(E), including matters (1), (8), (10), (11), and (13).*

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

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- **Comments A.5, A.6, A.7, and B.1.**

Section 3-701, Purpose. R-24 districts shall be mapped in locations designated primarily for infill development or in other locations consistent with the Comprehensive Plan. The rezoning to R-24 is not consistent with the Comprehensive Plan.

Section 3-702, Size and Location. R-24 districts shall be mapped only in locations consistent with the Comprehensive Plan. The rezoning to R-24 is not consistent with the Comprehensive Plan.

Section 4-201, Purpose. Commercial centers shall be located consistent with the Comprehensive Plan. The rezoning to PD-CC(CC) is not consistent with the Comprehensive Plan.

Section 6-1211(E)(1) - *Whether the proposed zoning district classification is consistent with the Comprehensive Plan.* Staff reiterates prior referral comments on this matter. The proposed zoning districts are not consistent with the Comprehensive Plan.

***Additional Staff Comment: Rezoning to the R-24 and PD-CC(CC) districts is not consistent with the Comprehensive Plan.***

**RESPONSE:** We acknowledge staff's view that the proposed zoning is not consistent with the Comprehensive Plan. We continue to request consideration of the Parc Dulles II project as an element of a revised Master Plan for the Dulles Town Center. This approach was recommended by the Planning Commission when the Parc Dulles II parcel was first presented at public hearing and has been implemented.

Further, we note that the application has been revised to further enhance the commercial development potential portion of the site zoned PD-CC(CC) by creating the potential for more than 40,000 sf of office. While 40,000 sf has been reserved specifically for office, the application now seeks the option to develop up to 100,000 sf of office, though the 100,000 development cap remains in place. In short, 40,000 sf is reserved for office and the remaining 60,000 sf may be developed as office or retail. The Special Exception application has been revised accordingly.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

---

- **Comment B.3.**

Section 6-1211(E)(8) - *Whether a reasonably viable economic use of the subject property exists under the current zoning.* The statement of justification (p. 15) continues to state that "the majority of the Property is currently zoned PD-IP." This is not accurate, as the whole site subject to this rezoning is zoned PD-IP. Revise the statement of justification accordingly. Staff also reiterates that the current zoning not only provides for a reasonably viable economic use of the property, but is also preferable to the proposed R-24 and PD-CC(CC) districts from an economic development standpoint.

***Additional Staff Comment: Comment B.3. is partially addressed. The Statement of Justification has been revised as requested. Staff maintains that the current zoning is economically viable and is preferable to the proposed R-24 and PD-CC(CC) districts.***

**RESPONSE:** We respectfully disagree with staff's assessment regarding viable locations for regional office uses. Further, the Plan calls for Regional office uses, but current zoning only permits up to 50% office use; the current zoning does not support the Planned land use.

- **Comment B.4.**

Section 6-1211(E)(10) - *Whether the proposed rezoning encourages economic development activities in areas designated by the Comprehensive Plan and provides desirable employment and enlarges the tax base.* Staff reiterates that the planned use of the property is Keynote Employment and is an area desirable for regional office and/or research and development centers as opposed to the high density residential, retail and small scale office uses proposed.

***Additional Staff Comment: The planned use of the property is Keynote Employment and is an area desirable for regional office and/or research and development centers as opposed to the high density residential, retail, and small scale office uses proposed.***

**RESPONSE:** The Applicant seeks to develop regional office uses in Dulles Town Center but simply notes that successful office use is more viable closer to Route 28.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

---

- **Comment B.5.**

Section 6-1211(E)(11) - *Whether the proposed rezoning considers the needs of agriculture, industry, and businesses in future growth.* Staff reiterates that rezoning property located in the Route 28 Taxing District to the R-24 zone reduces the potential for future industrial and business growth in the Tax District.

***Additional Staff Comment: Rezoning to the R-24 district in this location reduces the potential for future industrial and business growth in the Route 28 Tax District.***

**RESPONSE:** The Applicant is seeking to increase commercial value in the DTC property in a separate zoning. The subject property is unlikely to develop as desired by the County. The Applicant has developed regional office – ahead of market demand – along Route 28. Such development in DTC is not likely to occur away from Route 7 and 28.

- **Comment B.6.**

Section 6-1211(E)(13) - *Whether the proposed rezoning encourages the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the County.* Staff reiterates that the most appropriate use of the land is regional office and/or research and development centers.

***Additional Staff Comment: The most appropriate use of the land is regional office and/or research and development centers.***

**RESPONSE:** The Applicant seeks to develop regional office uses in Dulles Town Center but notes that successful office use is more viable closer to Route 28.

- **Comment B.10.**

Section 6-1310(C) - *Whether the level and impact of any noise emanating from the site, including that generated by the proposed use, negatively impacts the uses in the immediate area.* With regard to the fire/rescue site, please elaborate on the measures that will be incorporated to mitigate the negative impacts on the immediate residential uses.

***Additional Staff Comment: No specific measures addressing this matter have been offered by the applicant.***

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

---

**RESPONSE:** Staff from the Department of Fire, Rescue and Emergency Management have explained that fire and rescue stations must meet state requirements regarding the use of sirens and lights, and that Department has successfully integrated its operations with other uses, including residential, throughout the County. Numerous fire/rescue stations are located within residential areas and operate successfully and with respect for the neighborhood.

- **Comments B.11., B.14., and B.15.**

Section 6-1310(F) - *Whether the proposed use is compatible with other existing or proposed uses in the neighborhood, and adjacent parcels.* As noted in comment A.3. above, the current layout of the fire/rescue site creates multiple conflict points between the residential/commercial users and the fire/rescue vehicles. The shared access and close proximity of uses makes the neighborhood less suitable for a fire/rescue station.

Section 6-1310(J) - *Whether the traffic expected to be generated by the proposed use will be adequately and safely served by roads, pedestrian connections and other transportation services.* Staff is concerned that one of the return routes for the fire/rescue site is a private road. Staff also has concerns regarding the ability of fire/rescue vehicles to maneuver the site as currently configured.

Section 6-1310(O) - *Whether the proposed use will negatively impact orderly and safe road development and transportation.* The applicant proposes a directional median break on Nokes Boulevard for emergency vehicles only. Staff is concerned that such an improvement will negatively impact the safety of Nokes Boulevard.

***Additional Staff Comment: There are still numerous issues concerning the fire/rescue site including size, vehicular circulation, potential conflicts between residential/commercial users and the fire/rescue vehicles, and noise.***

**RESPONSE:** The proposed Special Exception has been revised to address the above referenced issues as well as the potential situation in which a fire/rescue site develops prior to the adjacent commercial center. (See Revised Statement of Justification and Special Exception plat).

- **Comment B.16.**

Section 4-201, Purpose. Address the location of service areas in the shopping center. Staff reiterates that the return route for fire and rescue vehicles is the primary access road serving the shopping center. Shopping center traffic has not been completely segregated from fire and rescue traffic as indicated in the response (p. 25).

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

---

***Additional Staff Comment:*** *The location of service areas in the shopping center has not been addressed as requested.*

**RESPONSE:** The Rezoning Plat has been revised to indicate the location of service areas.

- **Comment B.19.**

Section 5-1508, Steep Slope Standards. Sheets 1 and 2 continue to conflict regarding steep slopes. Revise general note 22 (sheet 1) to state that steep slopes areas are depicted on sheet 2. On sheet 2, distinguish between moderately steep slope areas and very steep slope areas. As the slopes depicted on sheet 2 vary from that shown in the Loudoun County Mapping System, staff is unsure what degree of steep slopes are being represented. While the slopes may be exempt from the steep slope standards, they should be depicted as either moderately steep (15% to 25%) or very steep (greater than 25%) in accordance with Article 8.

***Additional Staff Comment:*** *General note 22 (sheet 1) has been revised to state that all steep slopes on the site were created by permitted land disturbing activities. Prior to any further disturbance of the site, the applicant will need to provide documentation (CPAP # or grading permit) confirming that the very steep slopes illustrated on sheet 2 were the result of permitted land disturbing activities.*

**RESPONSE:** Documentation will be provided to staff under separate cover.

- **Comment B.20.**

Section 7-1003(E), Active Recreation Space. On the Rezoning Plat (sheet 4), the areas labeled "Approximate Active Rec Space" add up to less than 86,400 square feet. Ensure that at least the minimum amount of active recreation space is demonstrated on sheet 4. On sheet 4, under the active recreation open space narrative for the R-24 district, revise the section reference from "7-903(E)" to "7-1003(E)."

***Additional Staff Comment:*** *"Approximate Active Rec Space" on sheet 4 still adds up to less than 86,400 square feet. The response (p. 16) indicates the pool area is 31,400 square feet, which is not consistent with sheet 4. Ensure the minimum amount of active recreation space is demonstrated on sheet 4.*

**RESPONSE:** Please note that the Rezoning Plat specifically states that 86,400 square feet of active recreation space is required. The graphic depiction identifies the



PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

---

individual area for these active recreation spaces, but does not reflect a final design. The drawing depicts the Village Green as 20,000 sf, the pool facility is depicted as 22,000 sf, the clubhouse is proffered as 8,000 sf and the Community Green is depicted as 34,000 sf. The total shown in these areas adds up to 84,000 sf. Again, we note that the obligation stated on the plat is for 86,400 sf, and that the site plan will be required to identify that amount.

- **Comment B.23.**

The limits of the proposed rezoning extend to the centerlines of Nokes Boulevard and City Center Boulevard. As these are dedicated rights-of-way, these areas should not be included in the limits of the rezoning. Please revise all plan sheets accordingly.

*Additional Staff Comment: The applicant acknowledges this comment is outstanding. Please revise with the next submission.*

**RESPONSE:** The plat has been revised to ensure that the rezoning is only applicable to the subject property and not to adjacent ROW.

- **Comment B.24.**

Proffer V.B. provides for the extension of Haleybird Drive prior to residential occupancy. However, sheets 4 and 5 depict a cul-de-sac as opposed to a through road. Please revise sheets 4 and 5 accordingly.

*Additional Staff Comment: Sheet 4 continues to show Haleybird Drive as a cul-de-sac and the road encroaches into the building area.*

**RESPONSE:** Revised as requested.

- **Comment B.31.**

Sheet 4 illustrates a "proposed crosswalk" at the intersection of Ring Road and an unnamed street. Please account for this crosswalk in the proffer statement. Further, the Loudoun County Mapping System denotes both of these roadways as Dulles Town Circle. Revise the street names accordingly.

*Additional Staff Comment: Proffer VIII.A. specifies that crosswalks will be constructed "on the Property." For any crosswalks or other pedestrian improvements outside the rezoning area, staff would prefer a specific commitment to*

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

---

*such improvements in the proffer. Additionally, the streets names have not been revised as requested on sheet 4.*

**RESPONSE:** The plat is revised to show a sidewalk connecting the Parc Dulles II property to the mall, which provides a more comprehensive pedestrian connection between the two. The proffer statement has been revised to reference the off site sidewalk specifically (proffer VIII.A).

- **Comment C.1.**

Modification to Section 4-205(C)(2). Modify the yard requirements between the commercial center and the adjacent R-24 district. Reduce the yard for buildings, parking, areas for collection of refuse and loading areas from 100 feet to 50 feet, provided that no outdoor storage, areas for collection of refuse or loading areas shall be visible from residential areas and parking shall be screened to the extent feasible. Provide a 25-foot minimum type II rear yard buffer.

Staff Comment: Staff does not support this modification. The reduced yard does not exceed the public purpose, improve upon the existing regulation or offer an innovative design. In particular, staff does not support the yard reduction to 50 feet adjacent to the fire/rescue site. The full 100-foot yard should be provided in this area. Finally, the phrase, "to the extent feasible" should be removed from the proposed language. This wording is too subjective and does not offer clear requirements for the screening of parking.

*Additional Staff Comment: Staff reiterates the prior comments. Staff also notes the building layout for the fire/rescue site on sheet 5 meets Section 4-205(C)(2), demonstrating that a modification is not warranted for the building. Finally, staff notes the plat does not depict what is requested with the modification. Parking is shown at the zone line between the districts in two separate areas (i.e. no yard is provided) and a 25-foot yard is shown for the Fire/Rescue Site, not a 50-foot yard. Revise sheets 4 and 6 to illustrate the requested modification.*

**RESPONSE:** The depiction of the area affected by the proposed modification has been revised to accurately reflect the proposal. In addition, the Rezoning Plat and proffers have been revised to increase the landscaping in the R-24 zoning district adjacent to the modified area from a required Type I buffer to a Type II buffer, consistent with Sec. 5-1414(B) of the Zoning Ordinance.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

---

- **Comment C.2.**

Section 4-205(C)(3). Modify the yard requirements between the commercial center and the adjacent non-residential district (east property line). Reduce the yard for buildings, parking, and loading areas from 35 feet to 20 feet. Provide a 20-foot type II side yard buffer with 6-foot wood fence.

Staff Comment: Staff does not support this modification. The modified yard requirements are sought to accommodate the fire/rescue site and would not be necessary if the lot size were increased to five acres, as requested by Staff. The modified yard does not meet the standards for approval in Section 6-1504. Finally, in the description of this modification on sheet 4, remove the wording regarding refuse, as areas for collection of refuse are not regulated by this section.

***Additional Staff Comment: Staff reiterates the prior comments. Also, in the statement of justification (p. 19), the modification references "residential" district. This should be changed to "non-residential" district.***

**RESPONSE:** This modification has been eliminated from the application.

- **Comment C.3.**

Section 4-206(D). Community centers shall provide convenient and coordinated vehicular access to public roadways only via collector roads. This modification proposes access to public roadways (Nokes Boulevard and City Center Boulevard) via private access easements.

Staff Comment: Staff does not support this modification. Private roads to the Community Center, to include the public use site, do not improve upon the existing regulation requiring a public collector road. Further, as discussed in comment A.2. above, since multifamily residential uses are not permitted in the PD-CC(CC) district, the applicant cannot serve the multifamily residential with private roads from the PD-CC(CC) district.

***Additional Staff Comment: Staff continues to recommend a public road be built through the site.***

**RESPONSE:** Public road standards would preclude a pedestrian-friendly streetscape, which is desired in this proposed mixed use environment.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

---

- **Comment D.2.**

In regard to proffer I.B., staff suggests deleting the phrase "Section 3-702 of." Section 3-702 covers only the size and location requirements of the R-24 district.

*Additional Staff Comment: The response (p. 14) indicates that Section 3-700 is now referenced, but the proffer continues to reference Section 3-702.*

**RESPONSE:** We apologize for this error and affirm that it is corrected.

- **Comment D.6.**

In further regard to proffer IV., staff questions the ultimate condition of the archeological site. For example, will it be secured by a fence or other means to prevent entry, or will it be open to the community? Staff suggests the proffer address the perpetual maintenance and protection of the site, as the statement of justification (p. 17) indicates that all open space will be privately maintained by an owners association. Finally, staff suggests the applicant consult with the Department of Planning on appropriate measures for protection of the site.

*Additional Staff Comment: Staff suggests review of proffer IV. by appropriate staff in the Department of Planning.*

**RESPONSE:** Pursuant to additional comments from Planning staff, the proffer has been revised to provide for metal fencing during construction and to ensure that utilities and storm water management facilities are not permitted.

- **Comment D.7.**

In further regard to proffer IV., staff is unsure whether the second paragraph relieves the applicant of the prior commitment in paragraph 1 to perform a phase 2 survey. In paragraph 2, line 1, staff suggests the phrase "any additional archeological studies" be changed to "the Phase III archeological study."

*Additional Staff Comment: This paragraph remains confusing. Staff reiterates the prior comment.*

**RESPONSE:** There are two ways to address archaeological resources – preserve them on site or if the site must be impacted then to record and, where needed, excavate the resources. Paragraph 1 articulates a clear obligation to conduct archaeological research in the appropriate sequence, if the site is disturbed.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

---

Paragraph 2 simply states that if the site is preserved, no additional research is needed because the resource is not impacted. The Applicant is not relieved from its obligations under paragraph 2; the resource is being preserved, not impacted.

The Applicant has agreed to place the Archaeological preserve area in the Tree Conservation Area to ensure that no development is permitted therein. Further, utilities and swm facilities are precluded therein.

- **Comment D.8.**

Following the extension of Haleybird Drive called for in proffer V.B., does the applicant intend to dedicate this road to the County for acceptance by VDOT?

*Additional Staff Comment: The response (p. 15) indicates the right-of-way has been dedicated and the applicant will work with VDOT to have the road accepted into the public road system. Staff suggests a proffered commitment ensuring the applicant's stated intent to have Haleybird Drive (from City Center Boulevard to Ridgeway Circle) accepted by VDOT.*

**RESPONSE:** Proffer V.B has been revised to include a commitment to seek state acceptance of Haleybird Extended. The existing portion of Haleybird has already been accepted.

- **Comment D.9.**

In further regard to proffer V.B., staff suggests the applicant construct the full four-lane continuation of Haleybird Drive, as opposed to a 2-lane half section.

*Additional Staff Comment: Staff reiterates the prior comment.*

**RESPONSE:** The Applicant's existing commitment is for a 2-lane section, and the proposed proffer implements that commitment with a specific timing trigger. We recognize staff's desire for a 4-lane section. OTS has clearly noted that they seek a 4-lane section specifically because it appears there are no other property owners who could help pay for such an expansion. We note, however, that the traffic generated from the proposed development is significantly less than that anticipated from the by-right develop of PD-IP uses so a 4-lane expansion is not needed to mitigate the impact of development.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

---

- **Comment D.11.**

In regard to proffer V.C., the Rezoning Plat (sheet 4) illustrates a "future signalized intersection as warranted" at Haleybird Drive and City Center Boulevard, but not at the location noted in proffer V.C. Please add the future signal at Haleybird Drive and City Center Boulevard to the proffer, if not previously proffered. Also, depict the Nokes Boulevard/Site Entrance signal on sheet 4.

***Additional Staff Comment:*** The plat continues to show a future signal at the intersection of Haleybird Drive and City Center Boulevard that is not accounted for in the proffer. This is further confused by Proffer V.C. which provides for a signal at the site entrance and Nokes Boulevard, which is not depicted on the plat. It seems the applicant should fund both of these signals. The plat/proffer should be revised/clarified as previously requested.

**RESPONSE:** The proffer has been clarified with the intent to provide a warrant study at a time certain for each intersection and a specific contribution to any warranted lights. Further, proffered funds may be used for other signals in the DTC property if either signal is not warranted. Finally, a separate commitment, if needed, is provided for emergency lighting for a fire/rescue station.

- **Comment D.13.**

In regard to proffer VIII.C., staff suggests use of the tree conservation area language previously provided to the applicant by the Environmental Review Team. Staff does not support the current proffer, under which the applicant will save only two "key" trees within the Tree Conservation Area.

***Additional Staff Comment:*** Staff reiterates the need to revise the proffer consistent with the standard tree conservation language provided to the applicant by the ERT.

**RESPONSE:** The Tree Conservation Area proffer is revised to more closely reflect County recommended language.

- **Comment D.14.**

In further regard to proffer VIII.C., the legend on sheets 4 and 7 include "specimen" trees to be saved or removed, whereas the proffer refers to "key" trees. Staff suggests consistent language be used.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

---

***Additional Staff Comment:*** *The proffer continues to use the term "key trees," whereas the plat shows "specimen trees." This discrepancy should be resolved.*

**RESPONSE:** The proffer has been revised to be more consistent with staff recommended language and reference to specimen trees is eliminated.

- **Comment D.17.**

Staff suggests a proffer requiring the creation of a Home Owner's Association and/or Property Owner's Association, including a listing of the duties of the Association(s).

***Additional Staff Comment:*** *In Proffer X., the phrase "the Property has been or prior to approval of the first record subdivision plat or site plan will be subjected" is confusing. Revise the proffer to state the applicability of the current declaration and provide for its subsequent amendment to include the Parc Dulles II development.*

**RESPONSE:** The proffer is revised simply to state that the property will be subjected to current declarations.

**NEW COMMENTS:**

1. Substantial detail has been removed from the special exception plat for the public use site (sheet 6). Staff is concerned the plat now fails to meet all checklist requirements for a special exception. It appears a waiver of certain checklist requirements is needed.

**RESPONSE:** Detail was removed at the request of the Department of Fire, Rescue and Emergency Management as well as the Office of Capital Construction. However, the Planning Department recommends that detail be provided, consistent with checklist requirements.

We understand that a specific fire station has not been designed for this site but we continue to be optimistic that a zoning framework might be agreed upon that can meet Special Exception standards for mitigating impacts and so provide the County a more valuable option and prevent the unnecessary expenditure of time and resources in a future special exception application.

2. Access to City Center Boulevard has been eliminated. However, sheet 4 still illustrates curbs leading into the site from City Center Boulevard. Please revise the drawing to remove this curbing.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

---

**RESPONSE:** This curb cut has been removed.

3. On sheet 4, the legend has been changed. The color representing "approximate building area" has been changed to "approximate building/parking area." Also, note 2 states parking may be provided in areas designated as building area. Staff does not support these changes. Please depict one color as building area and another color as parking area. Delete note 2.

**RESPONSE:** This note has been revised, pursuant to discussions with staff, to provide more clarity about the location of buildings and parking.

4. On sheet 4, remove the two "Entrance wall and sign" features now shown. These do not need to be on the rezoning plat/CDP and will require a separate sign permit. Further, the location of the "Entrance wall and sign" at the intersection of City Center Boulevard and Haleybird Drive does not appear to comply with Section 5-1204(D).

**RESPONSE:** There is an approved sign plan for this property and entrance signage is shown at the site entrance; because the zoning is proposed to be changed, we request that entrance signage be included to prevent confusion in the future. We acknowledge that sign permits will be needed.

5. On sheet 1, please delete note 13. As previously requested, Proffer III.B. specifically deals with low impact development. As note 13 inconsistently references low impact design, please remove note 13.

**RESPONSE:** Revised as requested.

6. Please revise the draft proffer statement consistent with the comments from Larr Kelly dated March 25, 2009.

**RESPONSE:** The proffers have been revised in response to Mr. Kelly's comments. See below.

7. In proffer IV., line 1, it appears the phrase "Prior to any land disturbing activity by the Owner (as opposed to the County)..." is intended to exempt the future County-owned public use site from the requirements of this proffer. If so, clearly specify that exemption in the proffer. Otherwise, clarify the intent of this language.

**RESPONSE:** The proffer has been revised to state that "this proffer (IV) is not applicable to land disturbing activity within the Public Use Site."



**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

---

8. In regard to proffer V.C., staff questions whether the directional median break on Nokes Boulevard will require a signal which can be activated when emergency vehicles need access to the roadway. If so, staff suggests the applicant proffer to fund such a signal.

**RESPONSE:** The proffer has been revised to include signalization for emergency vehicles if needed in the future.

9. In regard to proffer VI.B.3., line 6, "teen center" is not a listed use in the zoning ordinance. A teen center may possibly be classified as a community center, provided such use is consistent with the Article 8 definition.

**RESPONSE:** In response to other staff comments, the teen center proffer has been removed.

10. ZMAP 2007-0001 includes a sheet and proffer dealing with the riparian corridor in Dulles Town Center, to include portions of the subject site. Measures within the subject property need to be included with this rezoning, as opposed to ZMAP 2007-0001.

**RESPONSE:** The proffers have been revised to commit to installation of plantings specified for sections A and B of the Stream Valley Plan.

11. The statement of justification (p. 6), in response to Section 6-1310(H), states no wetlands require preservation in the area of the office. Staff recommends the applicant expand this response to note the amount of wetlands that will be removed with the construction of the office buildings.

**RESPONSE:** The statement is revised as requested. The wetlands referenced here are part of a man-made drainageway.

**PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

---

**DEPARTMENT OF PLANNING**  
**DIVISION OF COMMUNITY PLANNING**

*(Comments received August 13, 2009)*

*Only outstanding issues are addresses here.*

1. **Land Use.** The proposal is not in compliance with the land use policies of the Revised General Plan, which envision the site to develop with 100% large-scale office uses supported by ancillary retail and personal services, along with the appropriate amount of public/civic and parks/open space. Residential uses should not be included within the land use mix given the site's Keynote Employment designation and its location within the Route 28 Tax District. Staff recommends denial of the application as proposed.

Staff also recommends that the Statement of Justification (pg. 7) be revised to reflect that the Destination Retail Overlay policies of the Revised General Plan do not apply to the site. The boundary of the Destination Retail Overlay is located west of the site (Figure 2).

**RESPONSE:** The Statement of Justification has been revised as requested to correct description of the Destination Retail Overlay District.

We respectfully disagree with staff that the proposed project is in conflict with the Revised General Plan's vision for the subject property and continue to seek review of the Parc Dulles II proposal as part of a mixed use environment for the larger DTC property.

2. **Open Space.** Staff recommends that the project comply with the open space policies of the Revised General Plan by fully incorporating at least 10.2 acres of open space, of which at least 7.7 acres should be internal to the site. An exhibit indicating the size of the individual open space areas would be helpful to determine the project's compliance with these policies. Staff will provide a more detailed open space analysis once this information is available. If it is determined that additional open space is needed, staff places a priority on preserving more of the property's forested riparian corridor (see Existing Conditions discussion below). Staff also recommends that proposed community green and tot lot be relocated to a more central location on the site, perhaps adjacent to the riparian corridor.

**RESPONSE 4/29:** The Rezoning Plat has been revised to provide 10.2 acres of open space. Interior open space (approximately 60% of all open space) includes active recreation areas – community green/tot lot and village green, the archaeology site and internal tree

**PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

---

conservation areas. Exterior open space (40% of open space) includes buffers and BMP/SWM areas; we note that SWM facilities can count as open space if they are developed as wet ponds, and while we anticipate that the primary BMP facility will, in fact, be a wet pond, to be conservative, we have not included it in the open space calculation. Given that the site is less than 50 acres and the proposal is not Keynote, we suggest that the minor variation in mix of open space type is acceptable (60% interior instead of 75%). The open space includes excellent facilities and spaces are well integrated with community center civic use.

Outstanding Issue: No exhibit showing size of open space areas has been provided so staff cannot confirm that 10.2 acres is provided. Also, the response letter indicates that the 75% internal open space policy is not met.

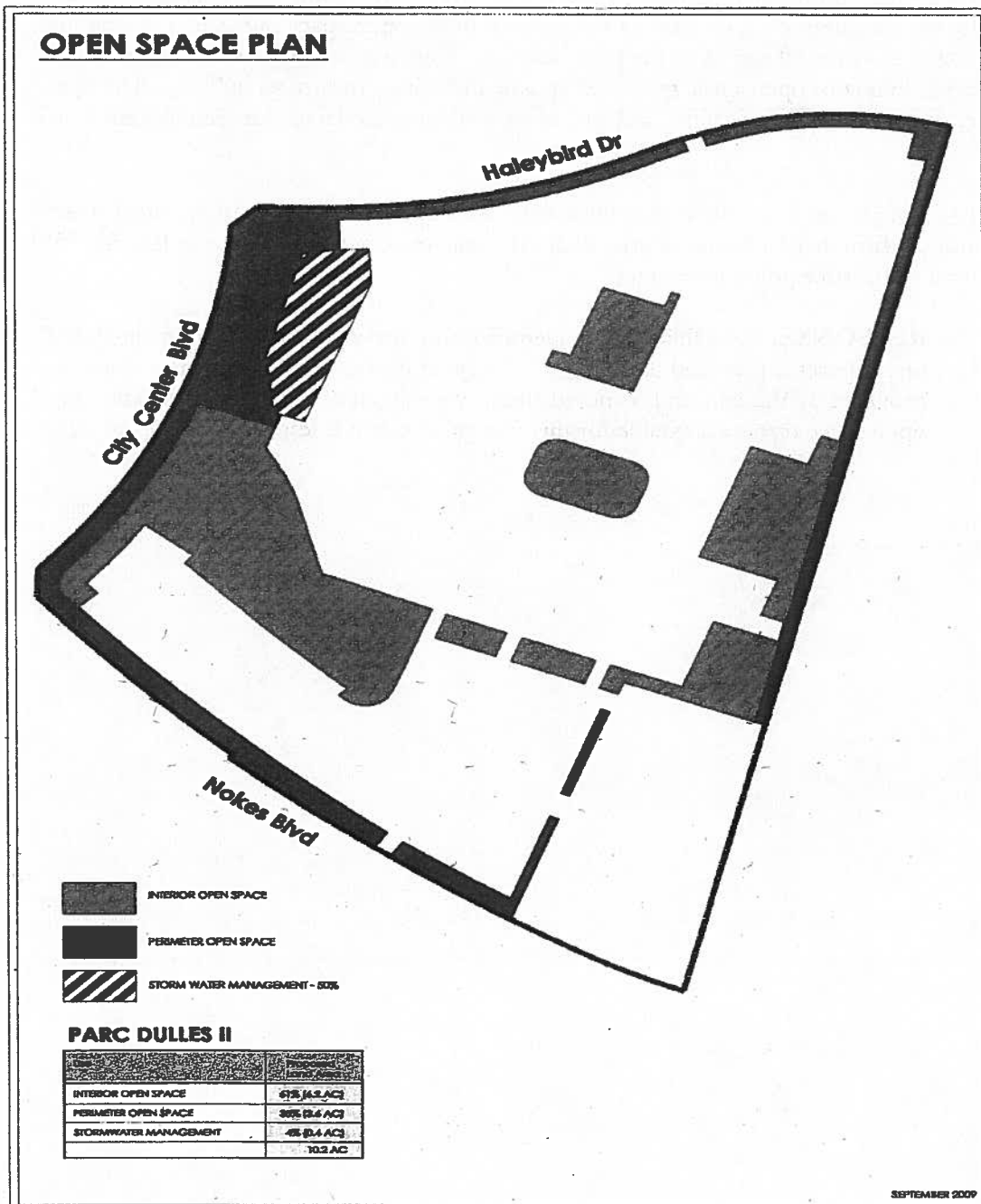
**RESPONSE:** An exhibit which identifies and provides area measurements for all open spaces is provided (see Figure 1). A great deal of high quality open space is provided on this site, and, as noted above, we suggest that the minor variation in open space mix is acceptable for this site, given that it is less than 50 acres in size.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

**FIGURE 1: OPEN SPACE PLAN**



PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

---

3. **Office Use.** Staff recommends that the rezoning application provide greater assurances that the office development proposed in SPEX 2008-0027 will occur. Staff recommends that the application commit to a phasing plan that ensures that the project's non-residential component will be developed concurrently with the residential uses. The application should also provide site design commitments that ensure a vibrant, vertically-mixed environment within the proposed PD-CC(CC) district.

**RESPONSE 4/29:** The amount of retail that can be developed has been capped at 60,000 sf to ensure that the remaining 40,000 must be developed as office uses for that commercial yield to be realized.

**Outstanding issue:** Continue to request specific reference to office use and inclusion of retail in Proffer I.2.b.

**RESPONSE:** Proffer I.2.b has been revised to specify 40,000 sf for office, 60,000 sf for non-office PD-CC-CC uses and 17,000 has been specified for allocation to the Public Use Site.

4. **Noise.** Staff recommends that the Applicant commit to construction techniques ensuring that all residential buildings built on the subject property will meet or exceed the County's interior noise standards of 51 dBA. Staff encourages a commitment to the U.S. Department of Housing and Urban Development interior noise standard of 45 dBA for the application given the proposed multi-family residential use. Staff also recommends further discussion regarding measures that may be needed to mitigate any impacts from the proposed fire & rescue station on the immediate residential uses.

**RESPONSE:** The proffers have been revised to include a commitment to construction standards that ensure interior noise does not exceed 45 dBA. The August 31 version of the proffers includes the proposed noise proffer.

5. **Lighting** Staff recommends a commitment to lighting that is downward directed, fully shielded, and in full conformance with Zoning Ordinance requirements. All lighting should be designed to preclude light trespass onto adjoining properties, glare to passerby, skyglow, and deterioration of the nighttime environment.

**RESPONSE:** The August 31 proffer statement includes a commitment to lighting design as recommended by staff.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

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6. **Sustainable Development.** Staff recommends that the Applicant commit to incorporating sustainable and energy efficient design and construction principles during the development of this project.

**RESPONSE:** The Applicant does not object to a proffer that all HVAC equipment meet Energy Star standards. This is a valuable commitment since HVAC is typically the most significant energy user in residential construction. Subsequent to discussion with staff, this provision will be incorporated. The August 31 proffer statement addresses construction waste management, water conservation and energy conservation.

7. Staff recommends the following commitments regarding pedestrian and bicycle circulation:

- 10-foot wide shared use paths along both Nokes Boulevard and City Center Boulevard;

A 5' sidewalk is provided along City Center Boulevard to be consistent with the existing 5' sidewalk in Parc Dulles. Because of the steep slopes at the edge of the property, there is not adequate space adjacent to City Center Boulevard for a 10' trail without construction of retaining walls. Along Nokes Boulevard, 8' asphalt trail is provided.

**Outstanding:** Staff could compromise at 8' along City Center Boulevard.

**RESPONSE:** Unfortunately, construction of City Center Boulevard created a significant grade differential, and 5' sidewalk is the maximum width we believe can be accommodated.

- Trails to and through the open space and recreational amenities (including pervious trails within the stream corridor and raised boardwalks over wetlands);

**RESPONSE:** Pervious surface trails are shown within the stream valley and connecting to internal sidewalk network.

- Appropriate intersection treatments throughout the proposed development to distinguish between pedestrian and vehicular movement;

**RESPONSE:** Crosswalks have been added throughout to address this concern.

- Ample bicycle parking;

**RESPONSE:** A minimum of 4 bike racks are included in the proffers.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

- 
- The provision of streetscape elements that are designed to encourage and foster pedestrian travel such as enhanced landscaping, street furniture, lighting, etc.

**RESPONSE:** The proffers and plat ensure the following:

- Buildings will line the main drive, with appropriate access to parking areas behind;
- Pedestrian scale lighting is provided throughout;
- Benches are provided in active recreation areas;
- Enhanced landscaping is provided adjacent to the Commercial Center; and
- A connected network of sidewalks and trails is included, along with crosswalks throughout to ensure that the pedestrian network is prioritized.

8. Staff recommends that the application commit to providing a mix of Affordable Dwelling Units (ADUs) that are dispersed throughout the community. It would be appropriate if the size of the ADUs (i.e., 1, 2, or 3-bedroom units) being provided are proportionate to the proposed market rate units.

Staff further recommends that in addition to ADUs, the Applicant provide a commitment that addresses the full spectrum of unmet housing needs up to 100 percent of the AMI. Providing actual units rather than a cash contribution would be preferred given that locating affordable housing near transit stations, such as the one planned on the Dulles Town Center property, is critical to providing affordable lifestyles for low and moderate-income families who may be particularly transit-dependent.

Staff also encourages the Applicant to consider incorporating housing for special needs populations as well as universal design principles into the project.

**RESPONSE:** The Applicant has proffered to provide 6.25% of all units as ADUs, which will be distributed throughout the project consistent with Zoning Ordinance requirements. Further, we note that the rental rates for the existing apartment projects – Remington and Parc Dulles – are generally between 95% and 120% of AMI. In essence, the entire project helps address unmet housing needs because it balances the Loudoun market which is heavily weighted to single family homes. **No additional changes to the application have been included.**

9. Staff recommends that the total impacts on capital facilities of the proposed residential development be mitigated.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

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**RESPONSE:** The Applicant has proffered the per unit capital facilities contribution required when the application was submitted which would result in a total contribution of \$4.5 million. A key value to the County is that this project is anticipated to be served by existing school capacity in the Park View cluster, which is underutilized at this time. No additional changes to the application have been included.

10. The open space calculations for residential projects may be more appropriate in this case, which call for a contribution of between \$1,298,650 and \$1,708,750.

**RESPONSE:** The Applicant is providing 30% open space along with high quality community facilities. Parc Dulles II is also part of the DTC property which is proposed to be served by numerous open spaces and parks, including Hadley's Park enhanced with a covered amphitheatre. No additional changes to the application have been included.

**PROFFER MATRIX TEAM**

*(Comments dated August 13, 2009)*

**[Proffer I.A.1.a]** Please revise the proffer statement to provide that the locations of the Affordable Dwelling Units (ADU) need to be dispersed throughout the market rate units on the property, and their location needs to be displayed on the record plat.

**RESPONSE:** The proffers have been revised to state that the project will include up to 445 multi-family units, of which 6.25% of the actual units built shall be Affordable Dwelling Units (ADUs), disbursed throughout the site consistent with Section 7-100 of the Zoning Ordinance.

**[Proffer I.B]** Please revise the proffer statement to state, "The Property will be developed in accordance with the PD-CC (CC) Zoning District, pursuant to Section 4-200, and the R-24 Zoning District, pursuant to Section 3-700 of the Revised 1993 Loudoun County Zoning Ordinance and any subsequent amendments of the Zoning Ordinance."

**RESPONSE:** Revised as requested.

**[Proffer II]** Please revise the proffer statement to eliminate the phrase "provided the County shall be responsible for extending the water and sewer lines for the Public Use Site" from this proffer. The County requires that all utilities be provided to proffered Public Use Sites. The provision requiring that the County pay for utility extensions to a proffered Public Use Site is not acceptable.



PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

---

**RESPONSE:** The proffers have been revised to clarify that the Owner will provide water and sewer service to the boundary of the public use site.

[Proffer III] Please revise the proffer statement to add the word "submission" to the end of the first sentence. Please consult with the County's Department of General Services regarding the types of Stormwater Management facilities to be developed on the property, and to be maintained by the County.

**RESPONSE:** Revised as requested.

[Proffer V.A] Please provide a stipulation in the proffer statement that the Owner will devise a Road Maintenance Agreement for the continued maintenance of the private road providing access to the northern portion of the proposed Public Use Site. The Road Maintenance Agreement must provide that the County shall have no responsibility for the plowing, maintenance, replacement or construction of the road. The agreement must also ensure that the Owner provides maintenance for the road to support around the clock Fire & Rescue operations. The agreement shall require the Owner to respond immediately to any issues Emergency Responders may have with the private roads leading into and out of the Station. Any private road providing access to a Public Use Site should be constructed to public road standards.

**RESPONSE:** A proffer addressing Road Maintenance is proposed.

[Proffer V.B] Proffer 23.E of ZMAP-1990-0014, Dulles Town Center, provides for the construction of two lanes of Haleybird Drive from City Center Boulevard to Ridgetop Circle. This road segment has not been completed yet. ZMAP-1990-0014 is the only approved rezoning in the vicinity of this project that would have potentially dedicated the necessary right-of-way for this road segment. The current owners and successors to ZMAP-1990-0014 are responsible for the construction of this road. The primary owner/successor to ZMAP-1990-0014 also happens to be the Applicant of this rezoning application. Therefore, the Applicant is responsible for the construction of two lanes of Haleybird Drive from City Center Boulevard to Ridgetop Circle. The County has no responsibility to provide any of the off-site right-of-way necessary to complete Haleybird Drive to Ridgetop Circle.

Please revise the proffer statement to include the Owner will provide all necessary right-of-way and related easements outside of the right-of-way, such as slope, maintenance, storm drainage, and utility relocation easements, at no cost to the County, necessary to construct the extension of Haleybird Drive to its intersection with Ridgetop Circle. Prior to the issuance of the first occupancy permit for any residential unit on the property, the Owner shall construct a 2-lane section of Haleybird Drive from its current terminus within the Dulles Town Center property to its intersection with Ridgetop Circle.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

---

In the event the Applicant wishes for the County to use Eminent Domain to acquire such necessary right-of-way and related easements outside of the right-of-way necessary to construct the extension of Haleybird Drive to its intersection with Ridgetop Circle, all such costs of eminent domain shall be borne by the Applicant.

**RESPONSE:** The proffer has been revised to provide specific timing triggers for construction of Haleybird, referencing both residential and commercial development. The Applicant does not agree, however, to obtain off site easements or to pay the costs of eminent domain proceedings that may be needed to obtain any off site easements.

**[Proffer V.C]** The cash contribution of \$337 per residential unit on the property will yield approximately \$149,965 in cash contributions towards the proposed traffic signal at the intersection of Nokes Boulevard and the entrance to the property. The cost of traffic signals generally exceeds \$150,000. Please consult with the Office of Transportation Services to increase the value of the per unit contribution to cover the estimated cost of the traffic signal at the entrance to the Property and Nokes Boulevard, and for a signal at the entrance to the Public Use Site at the proposed Directional Median Break for Emergency Vehicles along Nokes Boulevard as depicted on Sheet 4 of the CDP. The Applicant may also choose to proffer to construct and install traffic signals at the entrance to the Property and Nokes Boulevard, and at the entrance to the Public Use Site at the Directional Median Break, prior to the issuance of the 100<sup>th</sup> residential zoning permit on the property.

**RESPONSE:** The proffer has been revised to commit to a signal for emergency vehicles if requested by the County. The Applicant will conduct warrant analyses in a specified timeframe and contribute up to \$150,000 each for signals. If signals are not warranted, the contribution may be allocated to construction of signals in the larger DTC Property.

Please revise the proffer statement to provide that the traffic signal cash contributions may be used by the County for regional road, transportation, or transit improvements in the Sterling Planning Subarea of the County in the event the warrants for the traffic signals serving the Public Use Site are not met prior to the issuance of the 400<sup>th</sup> residential zoning permit.

**RESPONSE:** Signal contributions are restricted for use on signals within Parc Dulles II or DTC.

Please revise the proffer statement to provide for an additional cash contribution to the County to cover the cost of traffic signal preemption devices required to serve the Public Use Site in the event it is developed as a Fire & Rescue Station. The proposed traffic signals at the intersection of Nokes Boulevard and the entrance to the Property, and at the entrance to the Public Use Site at the

**PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

---

Directional Median Break along Nokes Boulevard, will require traffic signal preemption devices. The need for traffic signal preemption devices will be determined by the County prior to Site Plan approval for the Fire & Rescue Station, at which point the Applicant shall provide all necessary traffic signal preemption devices to the County, or provide the County with a cash contribution to cover the cost of signal preemption devices required to serve the Fire & Rescue Station.

**RESPONSE:** Revised as requested.

**[Proffer VI.A]** Please revise the proffer statement to provide for a capital facilities contribution of \$23,758 per market rate, multi-family unit upon the issuance of each zoning permit. Without knowing the exact amount of the capital facility credit for the proffered Public Use Site, if accepted by the Board of Supervisors, the capital facility contribution per each residential zoning permit issued is \$23,758 according to the County's updated Capital Intensity Factor.

**RESPONSE:** The proffered capital facilities contribution is consistent with County policy at the time that this case was heard by the Planning Commission in May, 2004.

**[Proffer VI.B]** Please revise the proffer statement to provide that the Owner shall provide all necessary utilities and roads to the Site as outlined below, within one year of the approval of this zoning map amendment application, ZMAP-2002-0017.

Please revise the proffer statement to stipulate that all permanent water and sewer, and underground telephone, electric, gas, cable, broadband and telecommunication lines will be provided to the proffered Public Use Site, at no cost to the County, prior to dedication of the site to the County. To ensure all public water and sewer are being provided to the site at no cost to the County, Staff requests that the Owner pay for all tap fees and hookup charge backs to access the public water and sewer systems at the Public Use Site. The proffer statement needs to stipulate that the proffered Public Use Site will be excluded from any Owner's Association.

**RESPONSE:** The Applicant agrees to provide water and sewer service to the Public Use Site for a fire/rescue station, however, additional services such as phone, cable, broadband, etc. will be the responsibility of the County.

Please revise the proffer statement to state that the Owner will construct all private roads required to access the Public Use Site, or provide a temporary access road to the Public Use Site, prior to issuance of the zoning permit for the public facility to be located at the Public Use Site.

**RESPONSE:** Revised to specify internal access to the Public Use Site.

**PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

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The Owner must also bond for construction and construct all onsite roads and trails within the development as depicted in the CDP. Fulfillment of the proffers will be contingent upon the construction of all proffered roads and trails as depicted on the CDP.

**RESPONSE:** We understand and acknowledge this requirement.

Please be advised that the County's capital standard for a proffered Fire & Rescue Station is at least 5 acres. The proffered 3.3-acre Public Use Site does not fit the County's capital facility standards. The Owner is not eligible to receive an automatic capital facility credit for the dedication of this site. The Owner may obtain a capital facility credit for the dedication of this parcel only upon approval of the Loudoun County Board of Supervisors.

**RESPONSE:** We understand.

[Proffer VI.B.3] Please revise the proffer statement to eliminate any "Acceptable Uses" from this proffer. In the event the site cannot be developed as a Fire & Rescue Station, the County reserves the right to develop the parcel for any other public use allowable within the zoning district regulations of the parcel. As currently stated, the proffer statement only allows for the development of the Public Use Site as a Public Park or a Teen Center in the event it is not developed as a Fire & Rescue Station. The County's Capital Improvement Plan (CIP) and Capital Needs Assessment do not provide for a Teen Center to be developed in the Sterling Planning Subarea. Therefore, a proffered site cannot be developed for a use that is not identified in the County's capital planning documents. Please remove all references to specific public facilities the Public Use Site may be developed as. Development of the Public Use Site is at the County's discretion.

The value of any on-site land dedication will be determined by an appraisal of the land using the procedures established under County policy for Proffer Land Value Credit Methodology. These procedures are available upon request from the project manager in the Planning Department. This appraisal determines the Capital Facility Credit provided to the Owner for the dedication of the site.

**RESPONSE:** The Public Use Site is proffered only for a fire and rescue station or for a park.

[Proffer VI.B.4] Please be advised that the public use site does not meet any of the County's capital facility standards, and is not eligible for an automatic capital facility credit. The Board of Supervisors must approve any capital facility credit for the site based upon the appraisal conducted by an approved appraiser.

**RESPONSE:** We understand and acknowledge this policy.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

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**[Proffer X]** Please revise the proffer statement to provide that all cash contributions provided in this proffer statement shall be adjusted annually by the Consumer Price Index (CPI-U) All Urban Consumers, Washington-DC-MD-VA-WV.

**RESPONSE:** Escalation of contributions is not provided.

**[HOA]** Please consult with the Office of the County Attorney regarding the process for including any housing units or commercial entities developed as part of ZMAP-2002-0017, Parc Dulles II, into the Owner's Association for Dulles Town Center.

**RESPONSE:** We anticipate County Attorney review.

Please stipulate that all sidewalks and trails within the development will be maintained by the Owner's Association. The Owner's Association will also be responsible for the maintenance and landscaping of all common areas and open space, trash removal and recycling services, snow removal, and the maintenance of private roads.

**RESPONSE:** Revised as requested.

**[Easements]** Please include a provision in the proffer statement that the Applicant will not place any restrictive easements on the Public Use Site without the knowledge and consent of Loudoun County prior to dedication of the Public Use Site to the County.

**RESPONSE:** Revised as requested.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

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**OFFICE OF TRANSPORTATION**

*(Comments dated August 12, 2009)*

1. Noting that they would have to coordinate with adjacent property owners to the north of Haleybird Drive, the Applicant indicates that it would be premature to construct a 4-lane section. In addition, the applicant notes that the Haleybird Drive alignment abuts commercial property to the east of the applicant's property and, once this property develops, they would be required to provide the remaining two lanes. The applicant notes that they only agree to provide two lanes of the Haleybird Drive connection to Ridgetop Circle. OTS notes that construction of the full four lane section needs to be provided by the applicant because we don't have a commitment to construct the other two lanes. Loudoun Tech Center has already dedicated right-of-way to accommodate a four lane road extension. OTS continues to recommend that the Applicant construct the 4 lane section. OTS also notes that the applicant is willing to provide the Haleybird extension prior to the first certificate of occupancy for any residential unit. This should be expanded to include occupancy for the proposed commercial (PD-CC (CC) uses as well.

**RESPONSE:** See response to Proffer Matrix Team above.

2. The Applicant continues to indicate that \$337 per residential unit (\$149,965) will be provided towards a traffic signal at the Nokes Boulevard/INOVA entrance. OTS notes that the Dulles Town Center traffic study, dated October 1, 2008 indicates a signal at this intersection and there are no other designated sources for this signal funding. This signal would also serve the proposed Fire & Rescue station within the site. OTS continues to recommend that the full funding (\$250,000) be provided. Issue not resolved. In addition, the Applicant's draft proffer language on page 4 under V. Transportation C. second paragraph, second sentence states that at the 300th zoning permit "If warrants for the signal are not met at this time, the cumulative contributions may be used by the owner for road improvements, traffic signals, and bus stops with the larger Dulles Town Center project, subject to the County's approval as to the improvement". OTS recommends that the phrase "may be" be changed to "will be" and that the phrase "transit services including" be added prior to the phrase "bus stops".

**RESPONSE:** See response to Proffer Matrix Team above.

3. The Applicant's Concept Development Plan indicates that the Haleybird Drive/City Center Boulevard intersection will be signalized as warranted. It is recommended that the Applicant provide a signal warrant study at the request of Loudoun County or VDOT to make this determination. In addition, it is recommended that the applicant commit to signalize this intersection when warranted.

**PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

---

**RESPONSE:** A signal warrant study is provided for in the revised proffers.

5. In order to help facilitate future transit service in the and address the needs of the residents of the proposed 445 multi-family dwelling units with this application, it is recommended that the applicant provide \$575 per dwelling unit for a total of \$255,875.

**RESPONSE:** The Applicant is proposing to construct a transit center in the DTC rezoning. We would agree to a transit contribution if the DTC rezoning is not approved and are available to discuss further with staff.

6. Under the proposed bus shelter proffer, V. Transportation D. Bus Shelters, on page 4 of the draft proffers, a cash equivalency clause of \$20,000 per shelter needs to be included. Also, the Applicant needs to confirm that these two bus shelters proffered with Parc Dulles are in addition to the two shelters proffered as part of the Dulles Town Center rezoning.

**RESPONSE:** A cash in lieu provision has been added and we confirm that a total of 4 bus shelters are proffered in the DTC and Parc Dulles II rezoning applications – 2 in each.

7. Regarding the issue of the adequacy of the proposed site entrance onto Nokes Boulevard to accommodate emergency vehicles, the applicant notes that additional discussion with Fire/Rescue is requested. In addition to the proposed Nokes Boulevard/INOVA entrance, the Applicant's concept plan indicates a right-in/right-out plus left-turn out at a modified median break on Nokes Boulevard for emergency vehicles at the southeast corner of the site. OTS concurs with the Applicant that discussion and coordination with Fire & Rescue is needed and recommends that written responses be obtained from the appropriate Fire & Rescue personnel.

**RESPONSE:** Additional discussions with VDOT have been held, and are ongoing to ensure the best way to provide the necessary median break.

8. For all monetary transportation contributions, an inflation factor increase, (CPI) is recommended to be included in the proffers.

**RESPONSE:** Escalation is not provided for.

9. The failing level-of-service (LOS) at the Route 7/City Center Boulevard intersection is an important issue which has been raised consistently by OTS staff. This issue has been discussed in-depth with the pending Dulles Town Center applications (ZMAP 2007-0001, ZCPA 2007-0001, SPEX 2008-0047 and SPEX 2008-0048). As part of those applications,

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

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OTS proposed restricting certain turning movements and/or the redirection of traffic to other locations at this intersection in order to improve the LOS. However, VDOT did not agree. At the suggestion of the Dulles Town Center Applicant, VDOT is reviewing the possibility of allowing a pedestrian crosswalk across Route 7 on the eastern leg of the intersection. This will facilitate pedestrian movement but will also increase average vehicle delays at this intersection. Please note that the Planning Commission (PC) has discussed the issue of forecasted failing LOS in developed areas as part of its ongoing review and update of the Countywide Transportation Plan (CTP). The PC is currently recommending that the Board consider revising the County's current LOS policy which would allow the County to consider development where LOS E or F conditions exist or are forecasted to exist in certain situations, provided the applicant makes a fair-share contribution towards an improvement that could help mitigate the impacts. OTS believes that the previously mentioned recommended transportation improvements (4-lane Haleybird Drive extension, increased signal and transit contributions) are needed to help mitigate impacts of site traffic at this intersection.

**RESPONSE:** We understand that the Planning Commission is currently considering this issue.

10. Under draft proffer, page 5, VII Route 28 Transportation Improvement District Payment, it is recommended that the applicant clarify the dollar amount left blank.

**RESPONSE:** We understand staff will provide this figure prior to public hearing.



PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

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**DEPARTMENT OF PARKS, RECREATION AND COMMUNITY  
SERVICES**

*(Comments dated August 17, 2009)*

1. This project will potentially add 445 multi-family residential units and offers a contribution of \$134.81 per residential unit (\$59,990.45) to the Open Space Easement Program to be used for the purchase of open space east of Route 28 or to provide active public recreation facilities east of Route 28. However, the Sterling subarea is presently and will continue to experience significant development. Additional development from new rezoning and by-right developments will place recreational facilities in further jeopardy from a capacity perspective. Developers of other subarea residential projects indicate in their applications that the area is supported by existing and planned public facilities, such as Claude Moore Park. However, residents from both by-right and rezoned subdivisions add a significant demand on existing recreation facilities which make it difficult to keep pace with respective service demands. This application alone will have an immediate impact on existing public recreational facilities in the area.

The Applicant should further demonstrate to staff, the Planning Commission, and the Board of Supervisors how the recreational and leisure needs of these new residents will be met without further taxing the existing public recreational facilities in eastern Loudoun. PRCS recommends increasing the contribution amount, and earmark it for the purchase of additional open space adjacent to an existing PRCS facility or for the improvement of an existing PRCS facility.

*Applicant Response: The proposed Parc Dulles II project has been designed as a continuation of the existing Parc Dulles project, and, like the existing residential neighborhood, excellent on-site amenities are provided. The proposed amenities at Parc Dulles II include a pool, tot lot, community green and indoor meeting space and recreational facilities.*

**Issue Status:** PRCS appreciates the Applicant's contribution to the immediate community recreation needs of the future residents of this application, as well as the contribution to the Open Space Easement Program. However, Staff still notes that these onsite amenities will not completely satisfy the recreational needs of the future residents of this project. The proposed onsite amenities will not completely mitigate the potential impact on existing public recreational facilities.

Future residents will require usage of public athletic fields, recreation centers and/or community centers, hiking trails, etc. Therefore, PRCS recommends that the Applicant proffer to further develop existing public recreational facilities within a 1-

**PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

---

mile radius of the project area. Staff recommends proffering to a specific public park improvement.

Applicant Response: *Like each other residential community in DTC, high quality recreation and community spaces are provided on site. Numerous park facilities, public and private, are proposed with the related DTC rezoning, as well. Finally, the Applicant has revised the proffers to prioritize park needs, specifically a public park or a teen center, at the Public Use Site, if the Fire/Rescue site is developed elsewhere.*

Issue Status: PRCS appreciates the Applicant's commitment to offer the "Public Use Site" (as described in Proffer VI.B) to PRCS for use as a Teen Center or Public Park, should the location be determined not suitable for a Fire/Rescue Station.

Please be reminded that the proposed 3.3 acre site does not meet any of the Loudoun County Capital Facilities Standards for teen centers and/or parks. In the Capital Needs Assessment, a Teen Center has been identified for the Leesburg/Ashburn area, and this property is in the Sterling area, albeit on the eastern edge of Ashburn. Therefore, please remove all language from the proffers specifying Teen Center and Public Park usage. Moreover, due to the acreage of the site, the Applicant would only be able to obtain Capital Facility Contribution credit for this dedication upon approval by the Board of Supervisors. However, the Board has previously accepted and continues to accept non-standard sized properties for parks and/or other public uses.

RESPONSE: The proffered Teen Center has been removed from the proffers as requested.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

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**ENVIRONMENTAL REVIEW TEAM (ERT)**

*(Comments dated August 17, 2009)*

*Regarding streams and wetlands*

- 1) The Stream Plan commits to a revegetation plan for Sections A and B as depicted on that plan. Said plan will be submitted concurrently with the first site plan submission for the R-24 portion of ZMAP-2002-0017. The proffer document and concept development plan do not account for this commitment. Staff recommends that they be updated accordingly (where Section B is tied to ZMAP-2007-0001), and that the revegetation plan be submitted with the first site plan submission for any portion of the site, and that the plan be completed prior to the issuance of the first occupancy permit for any building on site.

**RESPONSE:** The Stream Valley Plan has been incorporated into the proffers as requested.

- 2) Draft proffer VIII.D stipulates that wetland and stream impacts will be mitigated consistent with RGP policy through a "good faith effort." This commitment has the potential to be difficult to verify and enforce, while not ensuring mitigation within Loudoun County consistent with Revised General Plan (RGP) policies. Consequently, staff recommends commitment language similar to recently approved applications as follows:

"The Owners shall provide stream and wetland mitigation to offset impacts to jurisdictional waters and wetlands on the property according to the following priorities: (1) onsite, (2) within the Broad Run Watershed within the same Planning Policy Area, (3) within the same watershed within Loudoun County, and (4) elsewhere within Loudoun County, subject to approval by the U.S. Army Corps of Engineers and the Virginia Department of Environmental Quality."

**RESPONSE:** The wetland proffer has been revised as requested with the caveat that, in consultation with County staff, where costs of mitigation in Loudoun exceed available options within the Potomac Watershed by 110%, mitigation may be made elsewhere in the watershed.

- 3) Based on prior to field visits, segment 4 (as shown by the Legend, labeled "Concrete Blocks/Construction Debris") as depicted on the Stream Plan may provide an appropriate mitigation opportunity to address the prior comment.

**RESPONSE:** We agree but suggest that this approach would be subject to U.S. Army Corps of Engineers approval.

**PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

---

*Regarding forest cover*

- 4) Because the Stream Plan commits to plantings, staff recommends a commitment to preserve these areas similar to the Tree Conservation Area commitment, while also restricting the list of permitted uses to those unlikely to disturb the plantings.

**RESPONSE:** The Tree Conservation Area has been revised to incorporate the Stream Valley Plan.

- 5) Staff recommends attached language to commit to tree conservation areas. The draft proffer allows for unlimited disturbance related to trails and utilities within conservation areas.

**RESPONSE:** The proposed language has been included with modest revisions.

*Regarding Stormwater Management and Best Management Practices*

- 6) Draft proffer language does not commit to providing stormwater management and best management practice design for the proposed public facility, at the time of the facility's construction. Staff recommends amending proffer language to commit to making said facilities available at the time of construction of the fire station. ERT concurs with Community Planning's analysis that the acreage provided for the fire station is less than optimal project size for fire stations. Stormwater proffers that are amended as recommended can help address this shortfall in acreage.

**RESPONSE:** A proffer, III.C, was incorporated to address interim stormwater needs.

- 7) Staff recommends amending proffer III.A to read "will be provided as a retention (wet) pond with sediment forebays...", for clarity.

**RESPONSE:** Revised as requested.

*Regarding noise impacts*

- 8) ERT concurs with Community Planning's previous recommendations on noise attenuation, as noted in the April 29, 2009 referral. Staff understands it to be the case that the applicant does not agree to any noise attenuation as recommended by RGP policy.

**RESPONSE:** A noise proffer has been included in the proffers.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

---

*Regarding green building practices*

- 9) ERT concurs with Community Planning's previous recommendations on sustainable and energy efficient design, as noted in the April 29, 2009 referral. Staff understands it to be the case that the applicant does not agree to any green building commitments for housing units as recommended by RGP policy. For commercial construction, ERT recommends adoption of energy efficiency and sustainable design commitments made with ZMAP-2007-0001, or with the proposed fire station on site. Public facility design strives to achieve Leadership in Energy and Environmental Design certification at the silver level, or better.

**RESPONSE:** The recommended proffer language has been included.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

---

**ZONING DIVISION (Larr Kelly)**

*(Comments dated March 25, 2009)*

1. In regard to the preamble, in the first two lines thereof, I suggest that the phrase "Revised Loudoun County Zoning Ordinance (1993)" be changed to "Revised 1993 Loudoun County Zoning Ordinance".

**RESPONSE:** Revised as requested.

2. In further regard to the preamble, in the third line thereof, I suggest that the phrase "owner of parcel 102 on Loudoun" be changed to "owner of Loudoun".

**RESPONSE:** Revised as requested.

3. In regard to proffer I.A, in the third line thereof, I note that the referenced Rezoning Plat is referenced as being dated "July, 2002". However, I also note that while the cover sheet is so dated, Sheet 4 is dated "March 2008". I suggest that the date of the proffered sheets should be the same. Additionally, I note that this proffer states that the final revision date shown on the Rezoning Plat is March 10, 2008, while the date shown on the Plat which accompanied the referral is last dated February 20, 2009. I suggest that this inconsistency be eliminated.

**RESPONSE:** Revised to properly reflect dates of proffered sheets as July, 2002. We note that the Special Exception sheets are dated March, 2008, as they were added at that time pursuant to staff recommendation. These sheets are not proffered, of course, but stand alone as an approval, with conditions.

4. In regard to proffer I.A.1., in the first line thereof, I suggest that the term "multi-family" be inserted prior to the word "units".

**RESPONSE:** Revised as requested.

5. In regard to proffer I.A.2., in the first line thereof, I suggest that the phrase "areas in the locations" be changed to "areas, the locations". In addition, in the second line of the proffer, I suggest that the phrase "Major Open Space, Active Recreation" be changed to "Approximate Open Space, Approximate Active Rec" in order to match what is stated on the Rezoning Plat.

**RESPONSE:** Revised as requested.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

---

6. In regard to proffer III., in the third line thereof, I suggest that the phrase "BMPs as shown" be changed to "BMPs shown" and that the phrase "as Possible SWM/BMP" be added to the end of the sentence.

**RESPONSE:** This proffer has been more substantially revised for clarity and to respond to other referral agents' comments as well.

7. In regard to proffer IV., in the fourth line thereof, I suggest that the phrase ", and shown on the Rezoning Plat as 'Archeology Area'" be inserted following the reference to "Thunderbird Archeology Associates, Inc."

**RESPONSE:** Revised as requested.

8. In regard to proffer V.B., I note that the applicant has indicated the intent to "construct or bond" Haleybird Drive improvements prior to the issuance of the first certificate of occupancy. I suggest that consideration be given to having this improvement constructed or bonded prior to approval of the first record plat or site plan for the Property, whichever is first in time, and that the improvement be open for use prior to issuance of the first certificate of occupancy.

**RESPONSE:** The intent of the proffer is to ensure that Haleybird was constructed prior to the opening of the residential section. As an alternative to staff's recommendation that the roadway be constructed or bonded prior to site plan approval, the proffer has been revised to require submission of required application materials for construction of Haleybird prior to site plan approval in the R-24 district or prior to occupancy permit for the 1" 50,000 sf of development in the PD-CC(CC) district, and that construction would commence within 120 days of approval of plans for the roadway as well as provision of any necessary off-site easements.

9. In regard to proffer V.C., in the first line thereof, I suggest that the phrase "to the County" be inserted following the word "contribute". Additionally, in the first two lines of the second paragraph, I suggest that the phrase "the 300<sup>th</sup> Zoning Permit" be changed to "the 300<sup>th</sup> residential zoning permit for the Property".

**RESPONSE:** The approach to traffic signalization is more substantially revised.

10. In further regard to proffer V.C., in the third paragraph thereof, I note that the applicant has indicated that in the event the signal at their site entrance on Nokes Boulevard is constructed, then they shall install pedestrian activated devices for the signal. Given that this proffer indicates that the applicant intends to provide cash for this signal, and not actually

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

---

construct the signal, I question how they will be able to construct the pedestrian activated devices for the signals. I question the practicality of this part of the proffer and urge staff to consider whether this is feasible.

**RESPONSE:** This proffer has been revised to address this issue and ensure that a pre-emption device is included in construction of the signal if needed.

11. In regard to proffer V.D., concerning bus shelters, I note that the applicant is proposing to have the ability to determine when and where the bus shelters are to be constructed, "in conjunction with the County". It is not clear what is meant by the use of the term "in conjunction". I suggest that this should be with the approval of the County instead. As written, it is not even clear whether the bus shelter are to be constructed on site or off site, and it leaves it totally up to the applicant's discretion as to whether they will actually construct the shelters or decide to make a cash contribution for the shelters. I suggest that it be clarified that the shelters are to be constructed on-site and that the option to contribute cash in lieu of construction would only be operable if the transit services are not available.

**RESPONSE:** This proffer has been revised to clarify that bus shelters will be constructed and installed at a location as determined by the County and consistent with County guidelines. They may be located on site or off site, within the Dulles Town Center property. We are not opposed to a cash in lieu provision but seek additional discussion with staff regarding the circumstance in which bus shelters might not be needed. With significant public and private investment in transit service anticipated at DTC, it seems that bus shelters are needed.

12. In regard to proffer V.E., concerning construction traffic, I am uncertain whether the applicant's intent is to keep construction traffic off of Nokes Boulevard, but this language would not accomplish that if it is, as this only addresses the access point to the Property. If the intent is to keep construction traffic off of Nokes Boulevard, I suggest that this be clearly stated.

**RESPONSE:** This proffer has been clarified to allow construction traffic from Haleybird or Nokes. It also addresses the situation that may arise if a fire/rescue station were constructed prior to other parts of the site to ensure that access to the fire/rescue station is not impeded by construction activities.

13. In regard to proffer VI.B.1., in the first line thereof, I suggest that the phrase "to the County" be inserted following the word "dedicate".

**RESPONSE:** Revised as requested.



**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

---

14. In further regard to proffer VI.B.1., in the third sentence thereof, rather than indicating that "the Applicant agrees" to diligently pursue approval of a record plat to create the fire and rescue lot, I suggest that it be stated that "the Owner shall" submit a preliminary/record plat application to create the lot within so many days of approval of ZMAP 2002-0017 and that the Owner shall diligently pursue approval of such preliminary/record plat.

**RESPONSE:** Revised to specify a timeframe for submittal of a record plat application and dedication after approval of same.

15. In regard to proffer VI.B.2., concerning the capital facilities credit, I suggest that the amount of the credit be determined prior to approval of the zoning map amendment application, and that the credit be calculated into the per unit capital facilities contribution, rather than waiting to have this credit determined and applied at the time of zoning permit issuance. If this is done, then this proffer can be deleted.

**RESPONSE:** An appraisal is underway but has not been completed as of this date to make such calculation.

16. In regard to proffer VII., concerning the Route 28 Payment, I note that the applicant has indicated the intent to make the payment on or before 30 days following final unappealable approval by the Board of ZMAP 2002-0017. However, in reading Code of Virginia Section 15.2-4608C I note that the language calls for payment to be "simultaneous" with approval. I suggest that this provision be changed so as to conform to the Code.

**RESPONSE:** Additional discussion on this matter is requested.

17. In regard to proffer VIII.B. in the third bullet thereunder, I suggest that the term "swimming facilities" be changed to "swimming pool". I also suggest that consideration be given to specifying the length of pool lanes and the number of lanes. Additionally, in the first line of the last paragraph of the proffer, I suggest that the phrase "pool facilities" be changed to "swimming pool".

**RESPONSE:** The proffer has been revised to clarify that the "pool facility" will be 2,500 sf in size and will contain a pool that is at least 1,400 sf in size.

18. In regard to proffer VIII.C., I note that the applicant has indicated the intent to reserve the right to place trails within the Tree Conservation Area although no trails are shown on the Rezoning Plat as going through this area. If the applicant intends to construct trails through the Tree Conservation Area, I suggest that they be shown on the Rezoning Plat. I also note

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Third Round Referral Comments**

**August 31, 2009**

---

that the applicant has reserved the right to install utilities for development within the Tree Conservation Area. I suggest that it be indicated that the applicant shall minimize the placement of such utilities within the Tree Conservation Area. Finally, I note that the applicant refers to "Key Trees" while the Rezoning Plat shows "Specimen Trees" I suggest that a consistent term be used.

**RESPONSE:** The Tree Conservation Area proffer has been revised to be more generally consistent with the ERT-recommended language.

19. In regard to proffer IX.A., in the third line thereof, I suggest that a comma be placed after the word "County". Additionally, in the fifth line of the proffer, the applicant uses the acronym "CPI". I checked through previous proffers and nowhere has the applicant identified this as the acronym for the Consumer Price Index. Therefore, I suggest that either the full term be used or that this acronym be so identified.

**RESPONSE:** A comma has been added as requested; no reference to CPI is retained in the proffer statement.

20. In further regard to proffer IX.A., in the eighth and ninth lines thereof, I suggest that the phrase "fire and/or rescue service to the Property is no longer provided by an incorporated volunteer fire and rescue company" be changed to "fire and rescue services to the Property are no longer provided by incorporated volunteer fire and rescue companies". Additionally, in the eleventh line of the proffer, I suggest that the phrase "be halved and" be inserted following the phrase "contribution will".

**RESPONSE:** Revised as requested.

21. In regard to proffer IX.B., in the second line thereof, I suggest that the phrase "contribution of 0.10 per" be changed to "contribution of \$0.10 per". Additionally, in the third line of the proffer, I suggest that the phrase "floor area shall be paid to the County for" be changed to "floor area, to the County, for".

**RESPONSE:** Revised as requested.

22. In further regard to proffer IX.B., in the fifth line of the proffer, I again note the use of the acronym "CPI" and suggest that its meaning be clarified. Additionally, in the seventh line of the proffer, I suggest that the phrase "or fire and rescue stations" be inserted following the phrase "such as schools".

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Third Round Referral Comments

August 31, 2009

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**RESPONSE:** A reference to fire and rescue stations has been added as recommended; no reference to CPI is retained in the proffer statement.

23. These proffers will need to be signed by all landowners, and be notarized, prior to the public hearing on this application before the Board of Supervisors.

**RESPONSE:** We acknowledge this requirement. Thank you.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**~ Response to Fourth Round Referral Comments ~**

October 14, 2009

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**BUILDING AND DEVELOPMENT – ZONING ADMINISTRATION**

**Proffer Condition Management**

*(Comments dated September 30, 2009)*

1. [Proffer I.A.2] It is suggested that Proffer I(A)(2) include language to facilitate tracking the optional use thresholds that are proposed with the Office SPEX 2008-0027.

"A current tabulation of all office square feet shall be provided on all site plans and with all zoning permit applications. Said tabulations shall denote the subject office area proposed for each building, the overall office maximum area allowed within the PD-CC-CC land bay, and the cumulative to-date running total office area within the PD-CC-CC land bay."

**RESPONSE:** The proffers have been revised to state the following:

A tabulation, by square footage, of all uses within the PD-CC(CC) land bay, shall be provided on all site plans for the area designated as "Limits of Office Special Exception," on Sheet 4 of the Rezoning Plat. Said tabulations shall categorize uses as "Office-by right," "Office-by Special Exception," or "non-office, by right" and shall provide the cumulative square footage of each along with the maximum permitted for each category.

2. [Proffer I.A.2.a.ii] It is suggested that Proffer I(A)(2)(a)(ii) and its corresponding CDP and SPEX plat notes be deleted or revised to permit by-right PD-CC-CC uses in any non-office area, and not state "60,000 SF shall be available" that could exceed the total PD-CC-CC area in the land bay. Please suggest something like:

- (ii) "Permitted PD-CC-CC uses shall be allowed in any non-office area within the PD-CC-CC District."

**RESPONSE:** Pursuant to previous staff discussions, the intent is to increase the opportunity for office use, allowing for up to 75,000 sf of office uses anywhere within the PD-CC(CC) land bay, outside of the Public Use Site. The amount of non-office PD-CC(CC) use is limited to 60,000 sf and may be located anywhere in the land bay, again, outside of the Public Use Site. This approach reserves 40,000 sf for

Attachment 4

A-266

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

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office only. Further, Proffer I.A.2.a.ii specifies that no more than 100,000 square feet of development is permitted outside of the Public Use Site.

3. **[CDP/SPEX Plat]** There is an inconsistency between the CDP Sheet #4 and SPEX 2008-0027 plat sheet #7 regarding the *trail location* shown in the tree conservation area. This inconsistency should be corrected.

**RESPONSE:** Trails have been added to Sheet 7 to provide consistency.

4. **[CDP/SPEX Plat]** There are inconsistencies between CDP Sheets #4 and #8 and SPEX 2008-0027 plat sheet #7 regarding the location of the *Section A Naturalized Planting Area*. These inconsistencies should be corrected.

**RESPONSE:** The limit of the special exception, depicted on sheet 7, does not include any portion of the Naturalized Planting Area.

If the applicant persists with their SPEX 2008-0026 Fire & Rescue proposal, the following special exception comments are also suggested.

5. **[Proffer V.C]** It is suggested that Proffer V(C) specify that the Owner also install any traffic signal preemption device (not just design for it).

**RESPONSE:** Proffer is revised to state that "... a signal pre-emption device will be included and a signal installed at the site entrance at Nokes Boulevard, if such signal is warranted, and if requested by the County."

6. **[Proffer V.F.1]** It is suggested that Proffer V(F)(1) specify that the Owner shall construct both the Major Travelway as shown on the CDP sheet #4 and the inter-parcel access drive as shown on the SPEX 2008-0026 plat sheet #6 (not to be constructed by the County Fire & Rescue). It is noted that Proffer V(A) Road Network does not specify that the Owner shall design and construct all proffered roads per VDOT/County standards.

**RESPONSE:** The proffer currently states that "said access shall be included in site plans that includes the Major Travelway and constructed concurrently with the Major Travelway." Proffer V.A states that all roadways will be designed and constructed to meet referenced standards but has been revised to state that "the Owner shall design and construct..."all roadways.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Fourth Round Referral Comments**

**October 15, 2009**

---

7. **[Proffer V.F.3] It is suggested that Proffer V(F)(3) delete "At such time as a fire and rescue site is constructed" and specify that the Owner shall establish a road maintenance agreement and access easement prior to or concurrent with approval of the Fire and Rescue site plan. It is noted that Proffer V(A) Road Network does not specify that the Owner shall establish the maintenance agreement/easement.**

**RESPONSE:** The proffer is revised to specify that a maintenance agreement will be submitted within 60 days of submission of a site plan for the Fire/Rescue site. Further, proffer V.A is clarified to state that the Owner is responsible for all road construction on site and will provide public access easements for County and F/R vehicles.

8. **[CDP/SPEX Plat] There is an inconsistency between the proposed SPEX 2008-0026 plat sheet #6 and the CDP sheet #4 regarding the sidewalk location shown along Nokes Boulevard. This inconsistency should be corrected.**

**RESPONSE:** Trails have been added to Sheet 7 so that there is consistency, as requested by staff.

**A separate set of draft SPEX conditions has not been received for evaluation at this time; and Zoning Administration requests the opportunity to review them as soon as they are available.**

**RESPONSE:** We are pleased to collaborate on conditions of approval as needed.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

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**OFFICE OF TRANSPORTATION**

*(Comments dated October 1, 2009)*

1. **Regarding our request for Haleybird Drive to be extended as a four-lane facility east to Ridgetop Circle, the applicant continues to indicate that they will only construct two lanes. In addition, the applicant includes language in the draft proffers, under proffer V. B. that they are not responsible for obtaining off-site right-of-way or easements. This is not acceptable to OTS. Please note that county records indicate that off-site right-of-way has been dedicated, but on-site right-of-way has not been dedicated. Also note that VDOT will not accept half-sections for maintenance without a guarantee from the County that the remaining half-section will be constructed. Issues not addressed.**

**RESPONSE:** While a 4-lane roadway is not needed to accommodate anticipated traffic, the applicant seeks to provide a transportation connection that is valuable to the community. The applicant will revise the proffers for the Dulles Town Center case to include a commitment for 2 lanes as well, resulting in a complete 4-lane section for Haleybird over to Ridgetop Circle.

The applicant continues to seek County participation in ensuring the availability of easements. Our research indicates that adequate ROW exists, but temporary construction easements and storm water management easements will be provided from the adjacent property owner.

The applicant is proposing to submit all application materials for County review prior to being able to receive a building permit for Parc Dulles II. Once the plans are approved, the applicant will begin construction within 120 days. Because planning and construction of Haleybird is front loaded, the risk associated with having to acquire necessary easements is very great. This is why county support for ensuring that all easements are available is so important.

We understand that OTS will not be able to review the additional commitment for 2 lanes of Haleybird until revised DTC proffers are submitted, but this approach is the applicant's recommendation. By spreading the cost of a more significant roadway over 2 projects, the applicant can maintain its commitment to early provision of the road connection.

2. **Regarding our request for installation if warranted or full funding (now \$275,000) for a traffic signal at the Nokes Boulevard/INOVA entrance intersection, the applicant notes that they will conduct a warrant analysis and contribute up to \$150,000. This**

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

---

amount is inadequate based on current signal cost estimates. In addition, installation, if warranted, or full funding (\$300,000) is recommended for a signal at the Haleybird Drive/ City Center Boulevard intersection. It should also be noted that the applicant's concept development plan indicates that the Nokes Boulevard/INOVA and Haleybird Drive/City Center Boulevard intersections will be signalized as warranted. The applicant needs to commit to construct both signals when warranted or provide full funding which includes \$275,000 for the Nokes Boulevard/INOVA entrance signal and \$300,000 for the Haleybird Drive/City Center Boulevard signal. If signals are not warranted at the time the warrant study is completed, then the applicant needs to provide the full contribution towards future signalization when warranted. Issues not addressed.

**RESPONSE:** The proffers have been revised to provide warrant studies at a time that will accurately assess the need for a signal. If warranted, the Owner will construct the signals. Even if not warranted at the time, the owner may seek to construct signals in the future, at their discretion.

3. The applicant has addressed our request to cover the cost of signal preemption by including language under Proffer V.C. However, all the proffers need to be reviewed by the County Attorney's Office.

**RESPONSE:** We understand.

4. Regarding our request for a transit contribution of \$575 per dwelling unit (445 du's X \$575) totaling \$255,875, the applicant will only agree to provide it if the Dulles Town Center rezoning, along with the proposed transit center, is not approved. Please note that the Dulles Town Center application is a separate application and has no bearing on transit contributions with this case. Issue not addressed.

**RESPONSE:** We respectfully disagree, and note that a transit center, if approved, would provide a significant benefit to users of the proposed project. Furthermore, the value of a transit center to the County far exceeds \$575/unit. Certainly, in the absence of a transit center the transit contribution would be provided, and a proffer has been added to this effect.

5. Regarding our comment that the applicant insure that their proposed two bus shelters would be in addition to the two included in the Dulles Town Center proffers, the applicant has confirmed this in their response comments. However, this needs to be clarified where this is included in the draft proffers. Issue not addressed.



PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

---

**RESPONSE:** We affirm that the 2 bus shelters are separate from any bus shelters provided by the DTC zoning application. Because the proffers do not reference other bus shelters from other cases, it is not clear how staff would like to see revisions incorporated, but we do not object to the concept.

6. The applicant notes that discussions with VDOT have occurred regarding the proposed directional emergency vehicle access onto eastbound Nokes Boulevard from this site. OTS staff also recommends that the applicant coordinate with Loudoun Fire & Rescue staff on this issue. **Further clarification is needed.**

**RESPONSE:** Extensive discussion have been held with Fire/Rescue staff as well as VDOT.

7. Regarding our request for an inflation factor (CPI) to be included in the proffers, the applicant notes that an escalation is not provided for. **Issue not addressed.**

**RESPONSE:** Proffer VI.D has been added to commit to escalate the value of cash contributions by 2% every 5 years.

8. Regarding the issue of failing LOS at the Route 7/City Center Boulevard intersection, OTS noted that the previously mentioned transportation improvements, including the recommended four-lane Haleybird Drive extension, signal and transit contributions are needed to help mitigate impacts of site traffic at this intersection. The applicant notes that the Planning Commission is currently considering the Route 7/City Center Boulevard intersection as part of the Dulles Town Center rezoning. However, the improvements and contributions recommended by OTS have not been adequately addressed by the applicant. **Issue not addressed.**

**RESPONSE:** The proposed development at Parc Dulles II reduces potential traffic impacts from the site because development potential is significantly limited. Existing potential yield is 594,000 square feet. As proposed, the mix of residential and non-residential uses is comprised of 117,000 square feet. Residential land use also generates much less traffic than the permitted light industrial or office use.

In addition to reducing traffic impacts of this site, the Applicant has agreed to the requested signalization and will provide, through the DTC rezoning commitments, 2 additional lanes of Haleybird. Lastly, we note that the Applicant has endeavored to work with staff and County officials to identify both interim and long term solutions to the functioning of the Route 7/City Center Boulevard intersection for both vehicles and pedestrians.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Fourth Round Referral Comments**

**October 15, 2009**

---

9. **Regarding our request for the applicant to clarify the dollar amount for the Route 28 Transportation Improvement District payment, the applicant notes that they believe staff will provide this information prior to the public hearing. OTS staff defers to the Department of Planning and the Department of Management & Financial Services on this matter. OTS has no further comments on this issue.**

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

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**PROFFER MATRIX TEAM**

*(Comments dated September 17, 2009)*

1. [Proffer V.B] – The Applicant does not agree that they should provide all offsite ROW required to extend Haleybird Drive from its current terminus to Ridgetop Circle. My comment remains: “Please revise the proffer statement to include the Owner will provide all necessary right-of-way and related easements outside of the right-of-way, such as slope, maintenance, storm drainage, and utility relocation easements, at no cost to the County, necessary to construct the extension of Haleybird Drive to its intersection with Ridgetop Circle. In the event the Applicant wishes for the County to use Eminent Domain to acquire such necessary right-of-way and related easements outside of the right-of-way necessary to construct the extension of Haleybird Drive to its intersection with Ridgetop Circle, all such costs of eminent domain shall be borne by the Applicant.”

**RESPONSE:** See response to OTS comment #1, above.

2. [Proffer V.C] - The Applicant has proffered to provide a traffic signal and preemption device to serve the Fire & Rescue Station, but no details are provided regarding the location of this traffic signal, or the timing on which it will be delivered. The Applicant is also offering a \$150,000 cash contribution for the signal at the property entrance and Nokes Boulevard, which does not cover the full cost of the signal with preemption device. The Fire & Rescue Station will need traffic signals with preemption devices at both the entrance to the Property along Nokes Boulevard, and at the entrance to the Public Use Site at the Directional Median Break. The signals will need to be in place at the time the Station receives its occupancy permit. Therefore, the proffer should be revised to provide for both traffic signals, with preemption devices, to be installed by the Applicant in conjunction with the issuance of the occupancy permit for the Fire & Rescue Station, per VDOT review and approval. If the Applicant does not wish to install the two traffic signals, then the Applicant should provide a cash equivalent contribution to the County for the cost of each signal and preemption device, given to the County upon issuance of the zoning permit for the Fire & Rescue Station, so that the County may incorporate the signal construction with the construction of the Fire & Rescue Station.

**RESPONSE:** See response to OTS comment # 2, above.

3. [Proffer V.F.3] – Please revise the proffer statement to provide that the Applicant shall submit the Road Maintenance Agreement to the County for review and approval prior to construction of the Fire & Rescue Site.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

---

**RESPONSE:** Revised to indicate that said agreement will be proposed within 60 days of the submission of a site plan for a Fire/Rescue station.

4. **[Proffer VI.A] – My comment remains: “Please revise the proffer statement to provide for a capital facilities contribution of \$23,758 per market rate, multi-family unit upon the issuance of each zoning permit. ” We need to highlight in the Staff Report that the Applicant is failing to provide the full capital facilities contribution per market rate unit as provided by the County’s BOS approved Capital Intensity Factor.**

**RESPONSE:** This case was heard at public hearing by the Planning Commission and so meets the Board’s policy to evaluate the capital facilities proffer against policy in place at the time. The significant delay to continuation of the case was to respond to Planning Commission requests to evaluate the land plan for all of Dulles Town Center. The Applicant has worked diligently has made significant investments in the land plan for this important location in Loudoun County to ensure a vibrant Urban Center, again, pursuant to the request of the County’s Planning Commission.

5. **[Proffer VI.B.2] – My comment remains: “Please revise the proffer statement to stipulate that all permanent water and sewer, and underground telephone, electric, gas, cable, broadband and telecommunication lines will be provided to the proffered Public Use Site, at no cost to the County, prior to dedication of the site to the County. The proffer statement needs to stipulate that the proffered Public Use Site will be excluded from any Owner’s Association.”**

**RESPONSE:** The Applicant only agrees to provide the major utilities – water and sewer.

6. **[Proffer VI.B.3] – Please revise the proffer statement to eliminate any “Acceptable Uses” from this proffer. In the event the site cannot be developed as a Fire & Rescue Station, the County reserves the right to develop the parcel for any other public use allowable within the zoning district regulations of the parcel. As currently stated, the proffer statement only allows for the development of the Public Use Site as a Public Park in the event it is not developed as a Fire & Rescue Station. Please remove all references to specific public facilities the Public Use Site may be developed as. Development of the Public Use Site is at the County’s discretion.**

**RESPONSE:** We look forward to continued discussion on this matter and note that staff is clearly seeking to balance internal needs. Some staff request no

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

---

limitations on use, others seek uses that meet the Revised General Plan's definition of "civic use," and others have sought specific uses

7. **Please revise the proffer statement to provide that all cash contributions provided in this proffer statement shall be adjusted annually by the Consumer Price Index (CPI-U) All Urban Consumers, Washington-DC-MD-VA-WV.**

**RESPONSE:** Proffer VI.D has been added to commit to escalate the value of cash contributions by 2% every 5 years.

8. **Please stipulate that all sidewalks and trails within the development will be maintained by the Owner's Association. The Owner's Association will also be responsible for the maintenance and landscaping of all common areas and open space, trash removal and recycling services, snow removal, and the maintenance of private roads.**

**RESPONSE:** Detailed maintenance requirements are already specified in the Declaration for Dulles Town Center, and the proffers commit to including the property as subject to the Declarations (see Proffer X). We will provide a copy of this Declaration under separate cover.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Fourth Round Referral Comments**

**October 15, 2009**

---

**DEPARTMENT OF BUILDING AND DEVELOPMENT – ZONING**  
**DIVISION**

*(Comments dated October 5, 2009)*

[Requested revisions incorporated into the proffers except as specifically noted below]

1. In regard to the preamble, and in proffer I.A., I note that the applicant has indicated that the Rezoning Plat was last revised August 26, 2009. While this date is found on the cover sheet of the Parc Dulles II plan set, all of the pages, specifically including Sheet 4, have a last revision date of August 31, 2009. I suggest that this inconsistency be eliminated.
2. In regard to proffer I.A.1.b., I note that the applicant states that residential buildings constructed on the Property shall be designed and constructed with the “same quality” as that used in the residential project located to the north of the Property and known as Parc Dulles. It is not clear what this is intended to mean and I suggest that more specificity be provided.
3. In regard to proffer I.A.2.a., I note that the applicant has indicated that the commercial component of this site will have a maximum size of 117,000 square feet, with 17,000 available for the Public Use Site. The remaining 100,000 square feet can then be allotted as up to 60,000 square feet of retail/personal service/other uses and up to 100,000 square feet of office. I suggest that it be clearly stated that development outside of the Public Use Site shall not exceed 100,000 square feet.
4. In further regard to proffer I.A.2.a., in the last sentence thereof, the applicant refers to “open space”, but does not indicate how much of the Property is to be devoted to open space. I suggest that this be clarified. I also suggest that the phrase “include in open space as shown on the rezoning Plat”, be changed to “include open space in the areas shown on the Rezoning Plat”.
5. In regard to proffer III.B., in the first line thereof, I suggest that the phrase “any site plan” be clarified. It is not clear if this is intended to refer to the first site plan, to each site plan, or whether there is some other meaning intended. I also suggest that it be clarified that the chosen LID measure shall be approved by the County.
6. In regard to proffer IV, I note that it refers to the “Archaeology” Area shown on the Rezoning Plat, although I note that the Rezoning Plat spells it differently, “Archeology” Area. In order to avoid any discrepancy, I suggest that the proffers and the Rezoning Plat spell the word the same way.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Fourth Round Referral Comments**

**October 15, 2009**

---

7. In regard to proffer V.A., I note that all of the internal roads are to be private roads. As this development is not a PDH development, and residential uses are not permitted in the PD-CC-CC zoning district, and commercial uses are not permitted within the R-24 zoning district, I am concerned with the interparcel use of off-site private streets by uses that are not permitted within the other zoning district. This concern would be extinguished if the interparcel roadway was a public road. But, given that it is a private road, I urge you to discuss the permissibility of such an arrangement with the County Attorney's Office.

**RESPONSE:** We agree to collaborate with the project manager to seek a meeting with the County Attorney on this issue.

8. In regard to proffer V.B., I note that while the applicant has committed to constructing the extension of Haleybird Drive, the applicant has also indicated that they shall not be responsible for obtaining any off-site right of way or easements. It is not clear whether the necessary right of way is available or not, but if any right of way is needed, it is not clear how such right of way is to be obtained. I urge staff to check on the status of right of way and easements for this extension, and if either is needed, then I suggest that this proffer is not adequate to address the situation.

**RESPONSE:** In addition to the proffered construction of 2 lanes of Haleybird with this case, the Applicant will provide 2 lanes of Haleybird in relation to the Dulles Town Center rezoning. While we understand that this commitment cannot be incorporated into proffers at this point, it is the Applicant's intent to offer to construct a total of 4 lanes.

9. In regard to proffer V.C., I note that the applicant has proposed to construct a traffic signal at the intersection of Haleybird Drive and City Center Boulevard "within 24 months of the issuance of an occupancy permit for the 50,000<sup>th</sup> square foot of non-residential". I suggest that the word "development" be inserted following the phrase "non-residential". However, I question the timing mechanism in this situation, as the warrant study is to be done prior to the issuance of the 300<sup>th</sup> residential zoning permit, while construction is not at all tied to the timing of the study. Additionally, as written, if the applicant were to construct the whole center at one time, then the site could well be built out before the timing mechanism is reached. Therefore, I suggest that the phrase "occupancy permit" be changed to "zoning permit". This would at least reduce the risk that the project is built out before the trigger mechanism is reached.

**RESPONSE:** It is the Applicant's intent to provide warrant studies and then construct signals if warranted. The timing of warrant studies should reflect significant occupancy to enhance accuracy.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Fourth Round Referral Comments**

**October 15, 2009**

---

10. In further regard to proffer V.C., I note that there is nothing in the proffer to address what is to happen in the case where the warrant study does not support the installation of the traffic signal. I suggest that this be addressed.

**RESPONSE:** It is the Applicant's intent to provide warrant studies and then construct signals if warranted. The proffers have been revised to specific that the Applicant may seek to install a signal in the future, at their discretion, but if the proffered warrant studies do not support installation of a signal, the obligation to install a signal ceases.

11. In further regard to proffer V.C., in the second paragraph thereof, I note that the applicant has indicated the intent to include a pedestrian activated device for any signal "provided on-site". However, there are no signals provided "on-site". The only proffered signal is to be installed off-site at the intersection of Haleybird Drive and City Center Boulevard. I suggest that the applicant's intent be clarified.

12. In further regard to proffer V.C., I note that there is nothing contained herein to address who is to be responsible for the construction of the median break on Nokes Boulevard as shown on the Rezoning Plat. I suggest that this be clarified.

**RESPONSE:** The Applicant would agree to a condition to construct the median break if the County pursues a Fire/Rescue site.

13. In regard to proffer V.D., in the second line thereof, the applicant refers to "the Dulles Town Center development". However, it is not clear what the applicant has intended to reference. I suggest that this be clarified.

14. In further regard to proffer V.D., in the last line thereof, I suggest that the word "hereof" be changed to "of approval of this application, ZMAP 2002-0017".

15. In regard to proffer V.E., in the second line thereof, the applicant refers to "If, at the time of construction". The meaning of this phrase is unclear. I suggest that it be changed to read "For any construction on the Property after". Additionally, I suggest that the last sentence be rewritten to indicate that "Such a plan shall be provided prior to the issuance of the first zoning permit for the Property following the opening of the Fire/Rescue station for operation".

16. In regard to proffer V.F.1., in the third line thereof, I suggest that the phrase "as depicted on Sheet 4 of the Rezoning Plat" be changed to "depicted on Sheet 4 of the Rezoning Plat as 'Internal Access to Public Use Site'".



**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Fourth Round Referral Comments**

**October 15, 2009**

---

17. In regard to proffer V.F.3., in the third line thereof, I suggest that the phrase "maintenance of either the interim or permanent internal point of access" be changed to "maintenance of the interim access, if constructed, and the permanent 'Internal Access to Public Use Site'".
18. In regard to proffer VI.A., in the second line thereof, I suggest that the word "Facility" be changed to "Facilities". Additionally, I suggest that the applicant include an escalator clause for this proposed per unit contribution.

**RESPONSE:** A proffer has been incorporated to escalate the value of cash contributions by 2% every 5 years.

19. In regard to proffer VI.B., in the third sentence thereof, I suggest that it be rewritten to state "The Owner shall submit an application to create a parcel for the Public Use Site within sixty (60) days of the final unappealable approval of ZMAP 2002-0017".
20. In regard to proffer VI.B.2., in the second line thereof, I suggest that the word "Applicant" be changed to "Owner".
21. In regard to proffer VI.B.3., in the last two lines thereof, I suggest that the phrase "and such site shall be available for park use" be changed to "and said site shall then be available for use by the County as a park."
22. In regard to proffer VI.B.4., concerning a Capital Facilities Credit, I suggest that the appraisal be conducted and the amount of the credit determined prior to approval of this application, with an appropriate adjustment made to the per unit contribution specified in proffer VI.A., rather than leaving the assignment of such credit to the zoning permit personnel.
23. In regard to proffer VI.C., in the first line thereof, I suggest that the phrase ", for use in its" be inserted following the word "County", and that a comma be inserted following the word "Program", found in the second line. Further, in the fourth line of the proffer, I suggest that the word "Contributions" be changed to "Contribution".
24. In regard to proffer VII., concerning the buy-out clause from the Route 28 tax District, I note that the referenced section of the Code of Virginia, Section 15.2-4608, requires that payment of the buy-out is to occur simultaneously with the approval of the change of zoning. I suggest that this proffer be rewritten so as to ensure that payment is received simultaneously.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Fourth Round Referral Comments**

**October 15, 2009**

---

**RESPONSE:** Additional discussion is needed. Proffer VII commits to providing the required payment, but not until the 30-day appeal period of the Board's zoning action expires.

25. In regard to proffer VIII.A., in the fifth line thereof, there is a reference to the extension of an off-site sidewalk to the Dulles Town Center "mall". However, as I am uncertain how a sidewalk is to be extended to the mall itself, I question whether the intent of this proffer was to extend the sidewalk to the "Dulles Town Center Circle". Either way, I suggest that this be clarified.
26. In regard to proffer VIII.C., in the seventh line thereof, I again note the inconsistent spelling of the word "archaeology" here and on the Rezoning Plat. I suggest that this inconsistency be eliminated.
27. In further regard to proffer VIII.C., in the ninth line thereof, the applicant refers to "Sections A & B on the Stream Valley Plan described on Sheet 8". However, Sheet 8, which is not a proffered sheet, shows "Section B" as being off-site. It is not clear if the applicant intended to proffer a commitment to this off-site property. I suggest that this be clarified. The applicant also refers to the areas more specifically identified as "replanting areas". However, there are no areas on Sheet 8 shown as replanting areas. There are "Reforestation Planting" areas shown and "Naturalized Planting" areas, but no "replanting areas" I suggest that the applicant's intent be clarified.
28. In further regard to proffer VIII.C., in the fourth and fifth lines of the third paragraph thereof, I suggest that the term "tree conservation area" be changed to "Tree Conservation Area".
29. In further regard to proffer VIII.C., in the second and third lines of the fourth paragraph thereof, I suggest commas be placed after the words "Areas", "plat", "Owner", and "Forester".
30. In regard to proffer VIII.D., in the first line thereof, I suggest that a comma be placed after the word "Property". Additionally, in the third line of the proffer, I suggest that a comma be placed after the parenthetical "(DEQ)".
31. In further regard to proffer VIII.D., in the tenth and twelfth lines thereof, I suggest that the word "Applicant" be changed to "Owner".
32. In regard to proffer VIII.F., in the first line thereof, I suggest that the phrase "a site plan" be changed to "the first site plan".

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

---

33. In further regard to proffer VIII.F., in the third and seventh lines thereof, the applicant again references "Section B" as shown on Sheet 8. However, Section B is shown as being off-site of the Property. I suggest that the applicant clarify their intent in regard to this reference.
34. In further regard to proffer VIII.F., I note that the applicant has stated the intent to submit a re-vegetation plan for a determination that such plan is consistent with Sheet 8. However, the proffer does not specifically indicate that the planting will be installed in accord with such plan. I suggest that this be specified.
35. In regard to proffer VIII.H.1., in the first line thereof, I suggest that the word "building" be changed to "zoning".

**RESPONSE:** A construction waste management plan is related to building design and plans and is best developed in relation to detailed design. It is unclear why such a construction strategy would be valuable if submitted for zoning permits.

36. In regard to proffer VIII.H.3., I note that while Energy Star rated clothes washers will be installed in the residential component of the Property, there is no mention of clothes dryers. I suggest that consideration be given to including clothes dryers in the list of Energy Star efficient appliances that the applicant will install.
37. In regard to proffer IX.A., in the seventh and eighth lines thereof, I suggest that the phrase "service to the Property are no longer provided by an incorporated volunteer fire and rescue company" be changed to "services to the Property are no longer provided by volunteer fire and rescue companies".
38. In regard to proffer X., in the first line thereof, I suggest that the phrase "whichever is first in time," be inserted following the phrase "site plan,". I also suggest that it be indicated that the paperwork necessary to subject the Property to the existing Owners Association for Dulles Town Center shall be submitted to the County for review and approval prior to approval of the first record plat or site plan, whichever is first in time. Additionally, I note that it appears that both the residential and the commercial portions of the Property will be subjected to the same Owners Association. If any other intent is desired, I suggest that this be clarified.

**RESPONSE:** It is our intent to subject the property to the existing Declarations. It is not clear whether staff has any concerns about this approach and we seek additional guidance on this issue.

**PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027**

**Response to Fourth Round Referral Comments**

**October 15, 2009**

---

39. These proffers will need to be signed by all landowners, and be notarized, prior to the public hearing on this application before the Board of Supervisors.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

---

**ZONING ADMINISTRATION**

*(Comments dated October 7, 2009)*

This memorandum lists outstanding issues from the Zoning Comments dated August 14, 2009. The full text of the comments listed below can be found in the April 13, 2009 and August 14, 2009 memorandums. A limited number of new comments are provided.

- **Comment A.2.**

Section 3-702, Size and Location. Staff continues to recommend a public road be built through the site.

**RESPONSE:** We agree that consultation with the County Attorney on this matter may be needed at this time.

- **Comment A.3.**

Section 4-204, Special Exception Uses (B) Community Center (7), Fire and/or rescue station. There are still numerous issues concerning the fire/rescue site including size, vehicular circulation, potential conflicts between residential/commercial users and the fire/rescue vehicles, and noise.

**RESPONSE:** We have endeavored to address concerns about providing an appropriate site for a Fire/Rescue site. We would agree to condition the Special Exception further, as appropriate, to ensure that the use fits with the proposed community.

- **Comment A.4.**

Section 6-1211(E), Zoning Map Amendments. The proposed rezoning runs counter to a number of the matters for consideration in Section 6-1211(E), including matters (1), (8), (10), (11), and (13).

**RESPONSE:** We understand and respectfully disagree.

- **Comments A.5., A.6., A.7., and B.1.**

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Fourth Round Referral Comments**

**October 15, 2009**

---

Sections 3-701, Purpose; 3-702, Size and Location; 4-201, Purpose; and 6-1211(E)(1) Zoning Map Amendments. Rezoning to the R-24 and PD-CC(CC) districts is not consistent with the Comprehensive Plan.

**RESPONSE:** We understand and respectfully disagree.

- **Comment B.3.**

Section 6-1211(E)(8), Zoning Map Amendments. Staff maintains that the current zoning is economically viable and is preferable to the proposed R-24 and PD-CC(CC) districts.

**RESPONSE:** We understand and respectfully disagree.

- **Comment B.4.**

Section 6-1211(E)(10), Zoning Map Amendments. The planned use of the property is Keynote Employment and is an area desirable for regional office and/or research and development centers as opposed to the high density residential, retail, and small scale office uses proposed.

**RESPONSE:** We understand and respectfully disagree.

- **Comment B.5.**

Section 6-1211(E)(11), Zoning Map Amendments. Rezoning to the R-24 district in this location reduces the potential for future industrial and business growth in the Route 28 Tax District.

**RESPONSE:** We understand and respectfully disagree.

- **Comment B.6.**

Section 6-1211(E)(13), Zoning Map Amendments. The most appropriate use of the land is regional office and/or research and development centers.

**RESPONSE:** We understand and respectfully disagree.

- **Comment B.10.**

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Fourth Round Referral Comments**

**October 15, 2009**

---

Section 6-1310(C), Issues for Consideration. No specific measures addressing the level and impact of any noise emanating from the fire/rescue site have been offered by the applicant.

**RESPONSE:** We have increased the landscaping required in the buffer yard between the R-24 district and the proposed Fire/Rescue site to include evergreens, which are not required by the Zoning Ordinance. Further, the Fire/Rescue site abuts the parking area and no buildings, providing adequate separation. Lastly, we note that Fire/Rescue stations can coexist peacefully with residential neighbors, particularly in urban settings. Numerous stations in Loudoun County and in the Town of Leesburg are adjacent to residences.

- **Comments B.11., B.14., and B.15.**

Sections 6-1310(E), (J), and (O), Issues for Consideration. There are still numerous issues concerning the fire/rescue site including size, vehicular circulation, potential conflicts between residential/commercial users and the fire/rescue vehicles, and noise.

**RESPONSE:** We have endeavored to address concerns about providing an appropriate site for a Fire/Rescue site. We would agree to condition the Special Exception further, as appropriate, to ensure that the use fits with the proposed community.

- **Comment B.20.**

Section 7-1003(E), Active Recreation Space. On the Rezoning Plat (sheet 4), the areas labeled "Approximate Active Rec Space" add up to less than the required 86,400 square feet. The response (p. 8) acknowledges that the area shown is 84,000 square feet. Staff maintains the minimum area required should be demonstrated on the plat.

**RESPONSE:** The zoning tabulations very specifically state that 86,400 sf of active recreation space will be provided. We have checked the graphic depiction of each green space and revised to ensure that 86,400 sf is represented.

- **Comment B.31.**

Per the Loudoun County Mapping System, the road segment between Dulles Town Circle and City Center Boulevard is Dulles Town Circle, not Haleybird Drive as labeled on sheet 4. Revise the street name accordingly.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

---

**RESPONSE:** The length of road between Dulles Town Circle and City Center Boulevard has been relabeled as Dulles Town Circle, consistent with the mapping system.

- **Comment C.1.**

Modification to Section 4-205(C)(2). Modify the yard requirements between the commercial center and the adjacent R-24 district. Reduce the yard for buildings, parking, areas for collection of refuse and loading areas from 100 feet to 50 feet, provided that no outdoor storage, areas for collection of refuse or loading areas shall be visible from residential areas and parking shall be screened to the extent feasible. Provide a 25-foot minimum type II rear yard buffer.

Staff Comment: Staff does not support this modification in the area adjacent to the public use site. Staff reiterates that the building layout for the fire/rescue site on sheet 6 meets Section 4-205(C)(2), demonstrating that a modification is not warranted for the building. Staff again suggests that the phrase, "to the extent feasible" be removed from the proposed language. This wording is too subjective and does not offer clear requirements for the screening of parking.

**RESPONSE:** The extent of this modification has been reduced and is in effect for only 350' where the internal road connects the residential and commercial elements of the project to minimize segregation of uses and enhance walkability.

- **Comment C.3.**

Modification to Section 4-206(D). Community centers shall provide convenient and coordinated vehicular access to public roadways only via collector roads. This modification proposes access to a public roadway (Nokes Boulevard) via a private access easement.

Staff Comment: Staff does not support this modification and continues to recommend a public road be built through the site.

**RESPONSE:** We do not agree that a public road should be constructed through this site. Not only will application of VDOT standards in this setting make it exceedingly difficult to provide a pedestrian friendly streetscape, but also it does not seem reasonable that the public sector should be responsible for maintenance of internal streets.



PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

---

- **Comment D.9.**

In regard to proffer V.B., staff suggests the applicant construct the full four-lane continuation of Haleybird Drive, as opposed to a 2-lane half section.

**RESPONSE:** See response to OTS comment # 1 above.

- **Comment D.14.**

Specimen trees to be saved are noted on sheet 4. However, Proffer VIII.C. does not address these trees or include specifications for them. Staff suggests the proffer include provisions for specimen trees and defers to the Environmental Review Team (ERT) for specific comment on this issue.

**RESPONSE:** ERT has reviewed the proffers/plats and has not expressed concern about how specimen trees are addressed. All trees in the Tree Conservation Areas are protected from construction impacts, and all specimen trees are in Tree Conservation Areas.

**New Comments:**

1. SPEX 2008-0027 has been amended to increase the requested amount of office from 40,000 square feet to 100,000 square feet. This increases the amount of office in the PD-CC(CC) district from 34% to 85%. This is not consistent with the purpose of the PD-CC(CC) district to serve the retail shopping needs of the surrounding community (see Section 4-201). This special exception has the potential to eliminate all retail/service uses from the shopping center. Office uses should not be the predominate use in a PD-CC(CC) district. If the applicant intends to develop 100,000 square feet of office, the appropriate district is PD-OP. Finally, staff questions whether the applicant's traffic study is consistent with the potential to develop 100,000 square feet of office, all of which all may be medical and dental office.

**RESPONSE:** The proposed office Special Exception was increased to 100% in response to staff concern about limitations on office. The proposed has now been revised to permit up to 75,000 sf of office.

2. A stream valley plan (sheet 8) has been added to the plan set. Staff defers to the ERT for comment on this plan.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

---

3. On sheet 4, yard requirements have been shown based on Article 7, Affordable Dwelling Units (ADUs). However, proffer I.A.1.a seems to suggest that ADUs will be provided only if required by Article 7. As the layout demonstrated on sheet 4 takes advantage of Article 7, the related proffer should simply state that 6.25% of the units built will be ADUs.

**RESPONSE:** The Applicant is committed to provision of 6.25% of units as ADUs. Further clarification of staff's concern is needed.

4. On sheet 4, 25-foot rear yards are noted at the district boundary. As the district boundary is not currently a lot line, a rear yard does not exist in this area. Staff suggests removing the three labels noting a "25' rear yard." The labels related to *buffer yards* should be retained. All yards shall be provided in accordance with Section 7-1000 at the time of site plan.

**RESPONSE:** Revised as requested.

5. In the preamble (line 7) and in proffer I.A. (line 2), staff suggests sheet 8 be listed as a proffered sheet.

**RESPONSE:** Because only a portion of the Stream Valley Plan is related to Parc Dulles, all of Sheet 8 cannot be proffered. Proffer VIII.F is provided to specifically commit to Sections A and B, which would be commitments of the Parc Dulles zoning approval.

6. As noted in new comment 1. above, staff does not support the potential for office as the predominant use in the PD-CC(CC) district and suggests proffer I.A.2.a. be revised. Further, the current language is confusing, making it seem as though 160,000 sf shall be made available for development. The applicant cannot simultaneously have 160,000 sf available, when only 100,000 sf is permitted.

**RESPONSE:** The proffers are clarified to state a maximum of 100,000 sf for any use outside of the Public Use Area and to reduce the office potential, as requested.

7. Staff suggests deleting proffer I.B. If retained, staff suggests "Section 3-700" be changed to "Sections 3-700 and 7-1000" to account for compliance with Article 7.

**RESPONSE:** Revised as requested.

8. In proffer I.B., the phrase "Zoning Ordinance" is underlined in line 3, but not in line 2. Please remove the underlining in line 3.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

---

**RESPONSE:** Revised as requested.

9. In proffer VI.B.1., revise the order of the paragraph to first provide for submittal of a record plat to create the parcel within 60 days of approval of ZMAP 2002-0017, then dedication within 60 days of approval of the record plat.

**RESPONSE:** Revised to commit to submission of an application to create a parcel within 60 days of final approval and dedication within 60 days of approval of application to create the parcel.

10. In proffer VI.B.1., line 7, the term "materially adversely impact" is used. Staff is unclear as to the meaning and intent of this and suggests clarification.

**RESPONSE:** This language was recommended by staff to ensure protection of the site. We agree to the concept of protecting the site and would consider other language.

11. In proffer VI.B.1., line 9, the phrase "but before dedication to the County" does not make sense in the context of the rest of the sentence. Staff suggests this sentence be clarified.

**RESPONSE:** Again, this language was recommended by staff.

12. Proffer VIII.C. uses the term "Concept Development Plan", yet no sheet is titled in this manner. Staff suggests "the Concept Development Plan (CDP)" be changed to "Sheet 4 of the Rezoning Plat."

**RESPONSE:** Revised as requested.

13. In Proffer VIII.C., staff suggests that Tree Conservation Areas also be required to be delineated on all site plans.

**RESPONSE:** The last sentence of the 2<sup>nd</sup> paragraph states that "[b]oundaries of all Tree Conservation Areas shall be delineated on the record plat recorded for each section of the development, as well as on all site plans for the Property.

14. Proffer VIII.F. requires the Owner to submit a determination, but does not specify to whom. Rather than submitting a determination, staff suggests that substantial conformance be proffered to sheet 8 and that the re-vegetation plan, submitted with the first site plan, substantially conform to sheet 8.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

---

**RESPONSE:** As noted above, only a portion of Sheet 8 relates to the subject property so it seems awkward to proffer all of sheet 8. The Stream Valley Plan proffer attempts to be more specific. The proffer indicates that a revegetation plan would be submitted with site plan, so we assume that a site plan reviewer in the Department of Building and Development would receive the plan. If the County changes its administrative procedures, the revegetation plan would always be required to be submitted with site plans.

15. In proffer VIII.H., lines 9 and 10, the term “commercially reasonable efforts” is used. Staff is unclear as to the meaning and intent of this and suggests clarification.

**RESPONSE:** Further discussion with staff would be useful.

16. In proffer VIII.H., in the 3<sup>rd</sup> line of the last paragraph, please change “Applicant” to “Owner.” Please ensure that a consistent term is used throughout the proffer.

**RESPONSE:** Revised as requested.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

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**COMMUNITY PLANNING**

*(Comments dated October 2, 2009)*

1. **Land Use.** The proposed development is inconsistent with the Plan's vision for properties within the Route 28 Tax District that are designated for Keynote Employment development.

**RESPONSE:** We respectfully disagree with staff on this point.

2. **Public/Civic Uses.** Staff is concerned about the size and layout of the proposed fire and rescue site and recommends further discussion regarding measures that may be needed to mitigate impacts from the proposed station on the immediate residential uses.

**RESPONSE:** We have made significant revisions to the site to accommodate staff concerns. We understand that the County may not determine to use this site as a Fire/Rescue station, but we continue to seek a Special Exception for such use so that it is an option. The proffers address many impacts and requirements of site development, and the Applicant would support conditions of approval that would address specific concerns.

3. **Public Parks and Open Space.** In order for all the proposed open space areas to county toward the project's overall open space calculations, staff recommends tha the side and rear buffer yards be redesigned as more useable open spaces and a commitment provided that both BMP facilities will be wet year-round and developed with adjacent amenities such as gazebos, picnic areas and or walking paths.

Staff also recommends that Proffer VIII.B be strengthened to specify that a tot lot play ground will be multi-age and equipped with benches, and that amenities will be provided in the vicinity of both BMP facilities.

Lastly, staff recommends that more interior open space, consistent with Plan policies, be provided. The proposed community green and tot lot, currently along the eastern edge of the site and surrounded by residential buildings on three sides, should also be relocated to a more open and central location on the site where it can better serve as a focal point/community gathering area for the entire development.

**RESPONSE:** A pedestrian trail has been extended throughout the site, including the rear buffer yards, to connect the play area with the several natural open spaces on site. The side yards which are not included in Tree Conservation Area are adjacent to a parking area and do not seem to present the opportunity that staff suggests. The trail extends adjacent to BMP Facility # 1, which will be a wet pond (per proffers).

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

---

With regard to providing the tot lot in a central location, we note that the Village Green and pool/community building are centrally located and that the tot lot is connected via a pedestrian walkway through building, 150' away from the Village Green. Further, the tot lot incorporates a portion of the Tree Conservation Area, providing a varied green space that includes play equipment, lawn and forest.

Staff notes that the balance of interior and exterior open space is not consistent with Plan policy, but we have provided high quality interior open space with numerous, varied and well designed and connected open space opportunities. Plan policy also recognizes that variations in the land use mix is acceptable in projects less than 50 acres outside of Keynote areas. The application does not seek Keynote land use, transferring underlying commercial yield to more strategic locations at DTC, so we seek modest flexibility in the proportion of interior open space provided.

**4. Phasing and Office Commitments.** Staff recommends that the proposal provide stronger commitments that office development will occur on the souther end of the property by committee to the development of at least 40,000 square feet of office uses and/or a phasing plan that ensures the concurrent development of residential and non-residential uses.

**RESPONSE:** The Applicant has not proposed a phasing plan as we anticipate site planning and developing the site in a single phase. Per our proffers, a minimum of 40,000 is intended to be available for only office uses.

**5. Route 28 Buyout.** *The applicant anticipates that staff will provide a calculation for this requirement.*

**6. Existing conditions:** [see ERT evaluation below]. VDGIF has been contacted and has provided no additional information on habitat or species of concern.

**7. .** Staff recommends that the application commit to a variety of residential building types as well as appropriate screening of trash collection areas and mechanical equipment. Staff also recommends the application commit to site design elements that will help ensure a vibrant, vertically-mixed environment within the PD-CC-CC district as alluded to in the application.

**RESPONSE:** While the project is not proposed as a vertically mixed environment, a detailed design framework is provided as follows:

- Streetscape cross sections for the major travelway and for the buffer area between the residential and non-residential areas are provided on Sheet 4. These sections specify sidewalk width, landscaping area width, street width and location of on street parking.

**PARC DULLES II**  
**ZMAP 2002-0017**  
**SPEX 2008-0026 and SPEX 2008-0027**

**Response to Fourth Round Referral Comments**

October 15, 2009

---

- With regard to requested screening, the zoning requirements for screening of refuse collection areas and mechanicals are restated on Sheet 4.
- The proffers have been revised with the goal of committing to a high quality architectural environment without constraining innovation.

8. 10-foot wide Shared Use Path along Nokes Boulevard. Staff recommends a 10-foot wide asphalt trail along Nokes Boulevard.

**RESPONSE:** A 5-foot sidewalk is proposed in this location to match other perimeter sidewalks within DTC.

9. 10-foot wide share use path along City Center Boulevard. Staff recommends a 10-foot wide asphalt trail along City Center Boulevard.

**RESPONSE:** A 5-foot sidewalk is proposed in this location to match other perimeter sidewalks within DTC and because the topography prevents a wider facility. Staff recommends consideration of an on-street bike lane and we note that VDOT should be consulted as City Center Boulevard is a public street.

10. **Crosswalks.** Staff recommends a commitment that crosswalks that will be provided will be enhanced facilities such as raised crosswalks and/or changes in textures, patterns and colors to distinguish between pedestrian and vehicular movement.

**RESPONSE:** Wide painted crosswalks are used at Parc Dulles I and have been well-received; we appreciate further discussion about the best design for this purpose.

11. **Bicycle Parking.** Staff recommends that the application provide stronger commitments regarding bicycle parking.

**RESPONSE:** 4 bike racks are provided but the product proposed includes garages and additional storage for each unit.

12. **Unmet Housing Needs.** No change to the application has been proposed. All zoning requirements for ADUs will be met.

13. **Capital Facilities.** See response to Proffer Matrix Team comments above.

14. **Open Space Preservation Program.** No change to the application has been proposed.

PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

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**ENVIRONMENTAL REVIEW TEAM (ERT)**

*(Comments dated October 9, 2009 (e-mail))*

1. **Proffer Preamble – Sheet 8 should also be specified.**

**RESPONSE:** It is our intent to commit to Sections A and B in relation to this zoning. Portions of Sheet 8 are related to the DTC zoning, however, so all of Sheet 8 cannot be proffered.

2. **Proffers III.A and C – ERT recommends that applicant proffer to construct the permanent BMP for the fire station instead of just leaving a temporary easement.**

**RESPONSE:** The temporary facility is addressed only in the instance that a Fire/Rescue station precedes the private development. The permanent facility will be constructed by the application.

3. **Proffer VIII.C – Tree Conservation. ERT recommends designating Section A of replanting with a conservation easement. Per paragraph 3 of proffer, damaged tree removal and replacement should happen prior to first occupancy permit for the appropriate building instead of prior to bond release.**

**RESPONSE:** Section A is protected by the Tree Conservation Area from impacts. Because it is not planted with trees, but rather native vegetation, tree canopy requirements do not apply. With regard to bond release v. occupancy permit, the county's bond posting requirement is designed specifically to ensure that all commitments are met.

4. **Proffer VIII.D – ERT recommends that wetland mitigation be an outstanding issue, because proffer language does not address “no net loss” policy in RGP.**

5. **Proffer VIII.F – Stream Valley Plan. ERT supports the concept but suggests several wording changes. Timing of plan should be with first construction plan or site plan associated with R-24 or PD-CC(CC) areas. Plan should only specify “Section A” of stream valley plan, because “Section B” should be linked to Dulles Town Center rezoning not Parc Dulles II.**

**RESPONSE:** Section B is in the adjacent project, Parc Dulles I, and we would like it to be related to the proposed Parc Dulles II.

6. **Proffer VIII.H – Sustainable Development. ERT recommends adjusting H-1 wording on construction waste management to match approved proffer language for**



PARC DULLES II  
ZMAP 2002-0017  
SPEX 2008-0026 and SPEX 2008-0027

Response to Fourth Round Referral Comments

October 15, 2009

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**ZMAP-2008-0007.** For H2 and H3, water and energy conservation, ERT recommends commitments that are consistent between residential and commercial uses. The energy commitments focus on products, not buildings. ERT suggests not specifying products but instead committing to an overall energy efficiency goal for the commercial and residential buildings. Energy Star certification or participation in the Energy Star Portfolio Manager may be attractive, where individual tenants can later apply for LEED at their choice and outside of any proffered commitment.

**RESPONSE:** The Applicant will review the Energy Star Portfolio manager as recommended here.

7. **CDP Sheet 8 -- General note 3 should be removed.**

**RESPONSE:** Further discussion is needed on this point.

# MEMORANDUM

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**From:** Ann Eberhart Goode, AICP  
Direct Phone: 703.729.8536  
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**To:** Ginny Rowen - Loudoun County Planning Department  
**Date:** October 15, 2009  
**Subject:** Parc Dulles II Resubmission Materials – ZMAP 2002-0017

Ginny, I am providing 3 sets of material for your review and, at your request, will provide additional sets needed for distribution to the Planning Commission. I will provide, by separate memorandum, a detailed response to all 4<sup>th</sup> round referral comments. Please do not hesitate to call me to discuss any element of this application.

Please find attached the following:

- Revised Proffers, dated October 15, 2009
- Revised Rezoning Plat, dated October 15, 2009

Per our discussion, I am providing a summary of key changes to the application materials and my understanding of significant issues of concern to staff.

Issue	Response
<b>Land Use</b>	We continue to propose a combination of R-24 and PD-CC(CC) zoning districts.
<b>4-lanes for Haleybird Drive</b> -OTS -Proffer Matrix Team -Zoning	The Applicant proffers 2 lanes of Haleybird with Parc Dulles II and will incorporate a commitment to 2 additional lanes in the DTC rezoning. While this issue is not solved at this time, taken together, the zoning actions would support the 4-lane section desired by the County.
<b>Signalization</b> -OTS -Proffer Matrix Team -Zoning	The Applicant has agreed to conduct warrant studies and construct signals, if warranted.

Attachment 4

A-296

**MEMORANDUM**

Ginny Rowen

Loudoun County Department of Planning

Re: Parc Dulles II Resubmission Materials – ZMAP 2002-0017

Page 2

Issue	Response
<b>Escalation of Cash Commitments</b> -OTS -Proffer Matrix Team -Zoning	The Applicant will agree to escalate the value of cash commitments by 2% every 5 years.
<b>Transit Contribution</b>	The Applicant has agreed to the requested contribution unless the DTC application is approved, as significant resources, far exceeding the value of cash transit service contributions for residential uses at DTC, will be expended on the DTC Transit Center, a regional facility.
<b>Design Commitment</b> -Zoning -Community Planning	Additional language has been incorporated into the proffers at I.A.1.b to clarify the architectural commitment intended.
<b>Provision of Public Road Through Site</b> -Zoning	The Applicant continues to seek to construct a private roadway through the site. Staff has heretofore recommended a public road and in the last round of comments has recommended that this issue be discussed with the County Attorney.
<b>Modifications</b> -Zoning	The requested modification to reduce the yard between the districts from 100' to 50' has been revised to minimize the area of application.  The requested modification to permit access from a major collector, instead of a collector, is retained.
<b>Civic Uses / Public Use Site</b>	Additional discussion regarding the appropriate use for the proffered Public Use Site is needed. The Applicant has proffered a park, if a Fire/Rescue station is not needed. Staff has identified various needs that this area of the site should fulfill – consistent with C. N. A., zoning, provides civic space – and has even recommended specific uses (e.g. Teen Center, which was supported by the Applicant), which did not ultimately have staff agreement. The Applicant is open to other uses, but needs assurance that noxious uses will not be established at this site.
<b>ADUs</b> -Community Planning - Zoning	The Applicant is providing 6.25% of units as ADUs. Zoning referral suggests uncertainty about that commitment, so we will want to revise as needed to clarify that firm commitment. The Applicant is not addressing additional housing needs, beyond the scope of the Zoning Ordinance as Community Planning staff has requested.

A-297

**MEMORANDUM**

**Ginny Rowen**

**Loudoun County Department of Planning**

**Re: Parc Dulles II Resubmission Materials – ZMAP 2002-0017**

**Page 3**

<b>Issue</b>	<b>Response</b>
<b>Capital Facilities Contribution</b>	The Applicant is proffering the 2002 proffered amount, which, per Board policy, should be considered since this case has already been heard by the Planning Commission at public hearing.
<b>Open Space Easement</b>	Staff recommends a \$1 million + contribution, while the Applicant seeks to provide just under \$600,000.
<b>Stream Valley Plan</b>	The Applicant intends to proffer Sections A and B on Sheet 8. Several referral agents object to the note on this sheet indicating a commitment to the full plan when both DTC and Parc Dulles are approved.
<b>Office SPEX</b> -Zoning -Community Planning	The Applicant had increased the office requested by Special Exception to 100% of the PD-CC(CC) space, but in response to staff concerns that office not dominate the district, this request has been reduced to 75,000.

**AEG**